APPROPRIATIONS, BUDGET ESTIMATES, ETC.

VOL. 2

STATEMENTS

ONE HUNDREDTH CONGRESS, SECOND SESSION

(January 25, 1988 to December 22, 1988)

SHOWING

I.—MAJOR ACTS AUTHORIZING APPROPRIATIONS—Continued (pp. 1227-2219)

II.—PERMANENT APPROPRIATIONS—FEDERAL FUNDS (pp. 2221-2237)

III.—PERMANENT APPROPRIATIONS—TRUST FUNDS (pp. 2239-2254)

IV.—RECAPITULATION OF APPROPRIATIONS (pp. 2255-2258)

V.—CHRONOLOGICAL HISTORY OF REGULAR AND SUPPLEMENTAL APPROPRIATION BILLS (pp. 2268-2273)

VI.—AMOUNT OF LOAN AND BORROWING AUTHORIZATIONS, CONTRACT AUTHORIZATIONS, AND APPROPRIATIONS TO LIQUIDATE CONTRACT AUTHORIZATIONS (pp. 2275-2279)

VII.—AUTHORIZATIONS FOR APPROPRIATIONS (pp. 2281-2285)

VIII.—COMPARISON OF BUDGET ESTIMATES AND APPROPRIATIONS (pp. 2287-2390)

IX.—COMPARISON OF BUDGET ESTIMATES AND APPROPRIATIONS BY SESSIONS OF CONGRESS (pp. 2391-2398)

X.—TOTAL APPROPRIATIONS BY SESSIONS OF CONGRESS (pp. 2399-2407)

PREPARED UNDER THE DIRECTION OF THE COMMITTEES ON APPROPRIATIONS OF THE SENATE AND HOUSE OF REPRESENTATIVES AS REQUIRED BY LAW (U.S. CODE, TITLE 2, SECTION 105)

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S180-2

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COMPILERS' NOTES

1. The Legislative Appropriation Act approved June 7, 1924, provided:

   "In lieu of the data relating to offices created and omitted and salaries increased and reduced, the statement shall hereafter contain such additional information concerning estimates and appropriations, as the committees may deem necessary."

   Such data had been tabulated in previous volumes of this work for each session of Congress from the Fiftieth to the Sixty-seventh, inclusive, covering the fiscal years 1889 to 1924, inclusive.

2. This compilation contains laws affecting, rescinding, or making appropriations which were enacted during the second session of the 100th Congress with the exception of private relief acts containing appropriations. These acts have been omitted from this compilation, but a summary containing the number of the act, the beneficiaries, and the amount appropriated is included.

   There were *twenty-two* appropriations bills acted on, to some extent, by the Congress during the second session of the 100th Congress (twenty were House bills and two were Senate bills). *Twenty* of those bills eventually became law, consisting of thirteen regular annual appropriations bills, four supplementals for fiscal year 1988, one supplemental for fiscal year 1989, one budget rescission act, and one enrollment correction. One bill (S. 2562—District of Columbia, 1989) was reported in the Senate, but was not considered. Another bill (H.R. 5096—Emergency Supplemental, 1988) was reported in the House, but was not considered. A chronology of all twenty-two bills is included in table V (see pp. 2268–2273).

   There was one separate "rescission acts" and no separate "deferral resolutions" during the 100th Congress, second session; however, several rescissions and deferrals were included in appropriation acts. It should be noted that amounts *proposed* for rescission are not reflected in the *net totals* for new budget (obligational) authority shown in the various tabulations throughout this volume whereas *amounts rescinded are reflected* in those totals.

3. This volume also contains various comparative tabulations for the session showing, by fiscal years and in both detailed and summarized form, the Presidential budget estimates (requests) for "appropriations" and certain other types of requests involving the appropriation of obligating and spending authority.

4. While required by the Constitution as a necessary prerequisite to the withdrawal of *any* money from the Treasury, through long usage the term "appropriation" acquired a definite, technical word-of-art meaning in relating to many details and summaries in the annual budget of the President, in the making available of obligational and spending authority, and in tabulations and summarizations of congressional fiscal actions. If the proposition did not "appropriate" within the concept thus imparted to the term, then it was not added in the "appropriation" totals. If it did so "appropriate", it was added in.

   Thus, in congressional tabulations generally, a "reappropriation" (extension) of a balance of a previous appropriation was not added to the "appropriation" totals even though it provided obligational and spending authority beyond what would in its absence have been the case. An "authorization to expend from debt receipts" (sometimes called "public debt borrowing authority") was not counted as an "appropriation" even though it conveyed both authority to obligate and authority to expend. An authorization to enter into contracts in advance of an appropriation ("contract authorization"), being authority to obligate the Government but not to *expend* money, was not added in the general "appropriation" totals. But a subsequent "appropriation to liquidate" that contract authorization—an authority to expend money but not to create additional obligations—was counted as an "appropriation".

Furthermore, historically, prior to fiscal year 1969 the general budgetary and congressional appropriation totals were arranged and presented so as to give greater emphasis and prominence to those dealing with Federal or Federally-owned funds, as distinct from *trust* funds which the Government theoretically holds in a fiduciary capacity. Although prior to fiscal year 1938 (75th Cong., 1st sess.) such trust funds were relatively insignificant in the total appropriations picture they subsequently came to loom large, and while *separately* tabulated and noted in volumes of this work *previous* to the 90th Cong., 2d sess., they were not included in the aggregate totals, of "appropriations" generally emphasized and cited. (See note, table X, in volumes *prior* to the 90th Cong., 2d sess.). But in subsequent volumes, including this volume, they *are* incorporated in general appropriation totals.

Title 31 U.S.C., section 2, dealing with the national budget system, provides that the term "appropriations" includes, in appropriate context "* * * funds and authorizations to create obligations by contract in advance of appropriations, or any other authority making funds available for obligation or expenditure."

Special Note.—A further significant departure in what is now included in several general summary tabulations, which was not so included in these volumes *prior* to the 90th Cong., 2d sess., has to do with obligational or spending authority (including rescissions) conveyed in acts other than the regular annual and supplemental "appropriation" acts. Copies of such acts, and certain specific tabulations related to them, usually appear in one way or another in such prior volumes, but the amounts were not cranked directly into a number of the overall summary tabulations as had been done in volumes beginning with the 90th Cong., 2d sess. This especially affects tables VIII, IX, and X. To retain some consistency of ready identity as between amounts relating to the regular annual and supplemental "appropriation" acts and amounts relating to "appropriations in legislative acts", there is a breakout among these lines in each of these three tables (in some years, the "legislative act" amounts are quite significant, relatively. And sometimes, it is not easy or possible to nail down with absolute precision the amounts involved in the "budget estimates" or the amounts "appropriated"). The total new budget (obligational) authority in these tables are net amounts reflecting rescissions in regular annual and supplemental appropriation acts, rescission acts, and legislative acts.

A new, *unified* budget concept recommended by the President's Commission on Budget Concepts in its report of October 10, 1967, was embraced by the President, and the Budget for 1969 incorporated most of its basic features. The object was to secure usage, as nearly as may be practicable, of a *single* concept of appropriations, receipts, expenditures, lending, and debt in order to promote public and congressional understanding of Federal fiscal and budget actions and matters. The various comparative tabulations and summaries in this volume conform generally to the new concept in respect to "appropriations".

(For a more detailed exposition of the new concept, see the Report of the Commission, especially in relation to "appropriation", pp. 6, 12, 16, 76, 95, and 100; Special Analysis A, the Budget for 1969; and hearings of February 8, 1968, before the Committee on Appropriations, House of Representatives, on the Budget for 1969, p. 40 and following.)

Thus, in lieu of the terms "Estimates" and "Appropriations" used in volumes previous to the 90th Cong., 2d sess., subsequent volumes, including this volume, use the terms "Budget estimates of new (obligational) authority" and "New budget (obligational) authority appropriated". In broad terms, by far the major single difference between aggregate general totals in this volume in contrast to those in volumes previous to the 90th Cong., 2d sess., is the inclusion, in this volume, of *trust* funds (virtually all of which, incidentally, in any session or year, flow automatically from permanent-type enactment of *previous* sessions that thus do not require action in bills of the *current* session). And even under the new concept, in all but a relative handful of instances, the new budget (obligational) authority "requested" and "appropriated" is in the old, conventional "appropriation" form as previously used and understood.

Specifically, "new budget (obligational) authority" is derived by—

Appropriations (as herein above described) excluding appropriations to liquidate contract authorizations; plus
Reappropriations; plus
Contract authorizations; plus
Authorizations to spend from debt receipts.

It must be noted that there are, within the Government, certain inter-fund and intragovernmental payments between accounts that get counted in both places. Principal examples include: Interest on public debt securities held by trust funds; governmental contributions to employee retirement trust funds; and general fund contributions to various insurance programs. And under the new unified concept, certain "proprietary receipts from the public" are offset against budget authority *for budget summary presentation* purposes. This situation can complicate if a simple addition of Federal fund totals and trust fund totals is made without reckoning with this "deduct" problem. [Note.—The aggregate "deduct" figure of $217,979 million for fiscal year 1989 used in several of the summary tables in this volume is the *estimated* amount relating to fiscal year 1989 shown on page 6g–17 of the Budget for 1989. Being an estimate, the "deduct" figure is *subject to revision* as actual data become available; and an updated amount for fiscal 1989 will appear in the budget for 1990.]

5. The Congressional Budget and Impoundment Control Act of 1974, Public Law 93–344, changed the fiscal year from the July 1–June 30 fiscal year to an October 1–September 30 fiscal year, and provided for the change to take place with the fiscal year beginning October 1, 1976 (fiscal year 1977). However, the preceding fiscal year (1976) ran from July 1, 1975 through June 30, 1976, thus providing a three-month interim period (July 1–September 30, 1976) for the necessary transition to the new fiscal year. This volume, and the previous volumes beginning with fiscal year 1977, are based upon the October 1–September 30 fiscal year.

Title X (the "Impoundment Control Act of 1974") of the Congressional Budget and Impoundment Control Act of 1974 established new procedures for the reporting and control of impoundment actions of the President. Included in this volume are reports showing the status of rescissions and deferrals for fiscal year 1988 and the first 3 months of fiscal year 1989.

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[1] Majority and minority members elected January 6, 1987.
[2] Majority members elected January 6, 1987. Minority members elected January 21, 1987.
[3] Resigned October 5, 1987.
[4] Elected to the Committee October 21, 1987.

CONTENTS

		Page
1.	Assistance to Central America, Transfer of Funds, 1988	1
2.	Emergency Mandatory Veterans Supplemental Appropriations, 1988	5
3.	An Act to Extend the Life of the Commission on the Ukraine Famine	7
4.	Dire Emergency Supplemental Appropriations Act, 1988	9
5.	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989	17
6.	Department of Defense Appropriations Act, 1989	59
7.	District of Columbia Appropriations Act, 1989	117
8.	Energy and Water Development Appropriations Act, 1989	135
9.	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989	155
10.	Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989	207
11.	Department of the Interior and Related Agencies Appropriations Act, 1989	233
12.	Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989	285
13.	Legislative Branch Appropriations Act, 1989	323
14.	Military Construction Appropriations Act, 1989	349
15.	Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989	357
16.	Department of Transportation and Related Agencies Appropriations Act, 1989	395
17.	Treasury, Postal Service, and General Government Appropriations Act, 1989	427
18.	Urgent Supplemental Appropriations Act of 1989 to Meet the Dire Emergency Created by the Crisis of Drug Abuse	467
19.	Hand Enrollment of Appropriations Bills for Fiscal Year 1989	473
20.	Budget Rescission Act, 1988	475
21.	Status reports on rescissions and deferrals	477
22.	Deferral resolutions	489
23.	Miscellaneous acts authorizing or containing appropriations	491
24.	Recapitulation of miscellaneous private acts	2219
25.	Permanent appropriations—Federal funds	2221
26.	Permanent appropriations—Trust funds	2239
27.	Recapitulation of appropriations	2255
28.	Chronological history of appropriations	2268
29.	Comparison of budget estimates and loan and borrowing authorizations, contract authorizations, and appropriations to liquidate contract authorizations	2275
30.	Authorizations for appropriations	2281
31.	Comparison of budget estimates and appropriations	2287
32.	Comparison of budget estimates and appropriations by sessions of Congress	2391
33.	Total appropriations by sessions of Congress	2399
34.	Index	I

Public Law 100-605
100th Congress

102 STAT. 3043

An Act

To authorize a study of the Hanford Reach of the Columbia River, and for other purposes.

Nov. 4, 1988
[H.R. 3614]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMPREHENSIVE RIVER CONSERVATION STUDY.

The Secretary of the Interior ("Secretary"), in consultation with the Secretary of Energy, shall prepare a comprehensive river conservation study for that segment of the Columbia River extending from one mile below Priest Rapids Dam downstream approximately fifty-one miles to the McNary Pool north of Richland, Washington, as generally depicted on the map entitled "Proposed Columbia River Wild and Scenic River Boundary" dated May 17, 1988, hereinafter referred to as the "study area" which is on file with the United States Department of the Interior. The study shall identify and evaluate the outstanding features of the study area and its immediate environment, including fish and wildlife, geologic, scenic, recreational, natural, historical, and cultural values, and examine alternatives for their preservation. In examining alternatives means for the preservation of such values, the Secretary shall, among other things, consider the potential addition of all or a portion of the study area to the National Wild and Scenic Rivers System, and recommend a preferred alternative for the protection and preservation of the values identified. The Secretary shall cooperate and consult with the State and political subdivisions thereof, local, and tribal governments, and other interested entities in preparation of such a study and provide for public comment. The study shall be completed and presented to Congress within three years after the date of enactment of this Act.

Washington.

State and local governments.

SEC. 2. INTERIM PROTECTION.

(a) For a period of eight years after the enactment of this Act, within the study area identified in section 1 of this Act:

(1) No Federal agency may construct any dam, channel, or navigation project.

(2) All other new Federal and non-Federal projects and activities shall, to the greatest extent practicable:

(A) be planned, designed, located and constructed to minimize direct and adverse effects on the values for which the river is under study; and

(B) utilize existing structures and facilities including, but not limited to, pipes, pipelines, transmission towers, water conduits, powerhouses, and reservoirs to accomplish the purposes of the project or activity.

(3) Federal and non-Federal entities planning new projects or activities in the study area shall consult and coordinate with the Secretary to minimize and provide mitigation for any direct and adverse effects on the values for which the river is under study.

102 STAT. 3044

(4) Upon receiving notice from the entity planning the new project or activity, the Secretary shall, no later than ninety days after receiving such notice and consulting with the entity:

(A) review the proposed project or activity and make a determination as to whether there will be a direct and adverse effect on the values for which the river segment is under study; and

(B) review proposals to mitigate such effects and make such recommendations for mitigation as he deems necessary.

(5) If the Secretary determines that there will be a direct and adverse effect that has not been adequately mitigated, he shall notify the sponsoring entity and the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate of his determination and any proposed recommendations.

(b) During the eight year interim protection period, provided by this section, all existing projects that affect the study area shall be operated and maintained to minimize any direct and adverse effects on the values for which the river is under study, taking into account any existing and relevant license, permit, or agreement affecting the project.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not more than $150,000 for the purpose of conducting the study pursuant to section 1 of this Act.

Approved November 4, 1988.

LEGISLATIVE HISTORY—H.R. 3614:

HOUSE REPORTS: No. 100-960 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 12, considered and passed Senate, amended.
Oct. 19, House concurred in Senate amendment.

102 STAT. 3185 Public Law 100-615
100th Congress

An Act

Nov. 5, 1988
[S. 1382]

To amend the National Energy Conservation Policy Act with respect to the energy policy of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Energy Management Improvement Act of 1988. 42 USC 8201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Energy Management Improvement Act of 1988".

SEC. 2. FEDERAL ENERGY MANAGEMENT IMPROVEMENTS.

(a) IN GENERAL.—Part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251-8261) is amended to read as follows:

"PART 3—FEDERAL ENERGY MANAGEMENT

"SEC. 541. FINDINGS.

"The Congress finds that—

"(1) the Federal Government is the largest single energy consumer in the Nation;

"(2) the cost of meeting the Federal Government's energy requirement is substantial;

"(3) there are significant opportunities in the Federal Government to conserve and make more efficient use of energy through improved operations and maintenance, the use of new energy efficient technologies, and the application and achievement of energy efficient design and construction;

"(4) Federal energy conservation measures can be financed at little or no cost to the Federal Government by using private investment capital made available through contracts authorized by title VIII of this Act; and

"(5) an increase in energy efficiency by the Federal Government would benefit the Nation by reducing the cost of government, reducing national dependence on foreign energy resources, and demonstrating the benefits of greater energy efficiency to the Nation.

"SEC. 542. PURPOSE.

"It is the purpose of this part to promote the conservation and the efficient use of energy by the Federal Government.

"SEC. 543. ENERGY MANAGEMENT GOALS.

"(a) ENERGY PERFORMANCE GOAL FOR FEDERAL BUILDINGS.—(1) Subject to paragraph (2), each agency shall apply energy conservation measures to, and shall improve the design for the construction of, its Federal buildings so that the energy consumption per gross square foot of its Federal buildings in use during the fiscal year 1995 is at least 10 percent less than the energy consumption per gross square foot of its Federal buildings in use during the fiscal year 1985. 102 STAT. 3186

"(2) An agency may exclude from the requirements of paragraph (1) any building, and the associated energy consumption and gross square footage, in which energy intensive activities are carried out. Each agency shall identify and list in each report made under section 548(a) the buildings designated by it for such exclusion.

"(b) IMPLEMENTATION STEPS.—To achieve the goal established in subsection (a), each agency shall—

"(1) prepare or update, within 6 months after the date of the enactment of the Federal Energy Management Improvement Act of 1988, a plan describing how the agency intends to meet such goal, including how it will implement this part, designate personnel primarily responsible for achieving such goal, and identify high priority projects;

"(2) perform energy surveys of its Federal buildings to the extent necessary;

"(3) using such surveys, apply energy conservation measures in a manner which will attain the goal established in subsection (a) in the most cost-effective manner practicable; and

"(4) ensure that the operation and maintenance procedures applied under this section are continued.

"SEC. 544. ESTABLISHMENT AND USE OF LIFE CYCLE COST METHODS AND PROCEDURES. Public buildings and grounds.

"(a) ESTABLISHMENT OF LIFE CYCLE COST METHODS AND PROCEDURES.—The Secretary, in consultation with the Director of the Office of Management and Budget, the Secretary of Defense, the Director of the National Bureau of Standards, and the Administrator of the General Services Administration, shall—

"(1) establish practical and effective present value methods for estimating and comparing life cycle costs for Federal buildings, using the sum of all capital and operating expenses associated with the energy system of the building involved over the expected life of such system or during a period of 25 years, whichever is shorter, and using average fuel costs and a discount rate determined by the Secretary; and

"(2) develop and prescribe the procedures to be followed in applying and implementing the methods so established.

"(b) USE OF LIFE CYCLE COST METHODS AND PROCEDURES.—(1) The design of new Federal buildings, and the application of energy

conservation measures to existing Federal buildings, shall be made using life cycle cost methods and procedures established under subsection (a).

"(2) In leasing buildings for its own use or that of another agency, each agency shall give appropriate preference to buildings which minimize life cycle costs.

Public information.

"(c) USE IN NON-FEDERAL STRUCTURES.—The Secretary shall make available information to the public on the use of life cycle cost methods in the construction of buildings, structures, and facilities in all segments of the economy.

"SEC. 545. BUDGET TREATMENT FOR ENERGY CONSERVATION MEASURES.

"Each agency, in support of the President's annual budget request to the Congress, shall specifically set forth and identify funds requested for energy conservation measures.

102 STAT. 3187

Contracts.

"SEC. 546. INCENTIVES FOR AGENCIES.

"(a) IN GENERAL.—Each agency shall establish a program of incentives for conserving, and otherwise making more efficient use of, energy as a result of entering into contracts under title VIII of this Act.

"(b) IMPLEMENTATION.—The head of each agency shall, no later than 120 days after the date of the enactment of the Federal Energy Management Improvement Act of 1988, implement procedures for entering into such contracts and for identifying, verifying, and utilizing, on a fiscal year basis, the cost savings resulting from such contracts.

"(c) USE OF SAVINGS.—The portion of the funds appropriated to an agency for energy expenses for a fiscal year that is equal to the amount of cost savings realized by such agency for such year from contracts entered into under title VIII shall remain available for obligation, without further appropriation, to undertake additional energy conservation measures.

"SEC. 547. INTERAGENCY ENERGY MANAGEMENT TASK FORCE.

"(a) IN GENERAL.—To assist the interagency committee organized under section 656 of the Department of Energy Organization Act (42 U.S.C. 7266) to coordinate the activities of the Federal Government in promoting energy conservation and the efficient use of energy and in informing non-Federal entities of the Federal experience in energy conservation, the Secretary shall establish an Interagency Energy Management Task Force (hereafter in this section referred to as the 'Task Force').

"(b) MEMBERS.—The Task Force shall be composed of the chief energy managers of agencies represented on the interagency committee organized under section 656 of the Department of Energy Organization Act.

"(c) DUTIES.—The Task Force shall meet when the Secretary requests, but not less often than twice a year, to—

"(1) assess the progress of the various agencies in achieving energy savings;

State and local governments. Public information.

"(2) collect and disseminate information to agencies, States, local governments, and the public on effective survey techniques, innovative approaches to the efficient use of energy, incentive programs developed under section 546, innovative contracting methods developed under title VIII of this Act, the use of cogeneration facilities and renewable resources, and other technologies that promote the conservation and efficient use of energy;

"(3) coordinate energy surveys conducted by the agencies;

"(4) develop options for use in conserving energy;

Reports.

"(5) report to the committee organized under section 656 of the Department of Energy Organization Act; and

"(6) review, from time to time as may be necessary, the regulations relating to building temperature settings to determine whether changes in such regulations would be appropriate to assist in meeting the goals specified in section 543.

"SEC. 548. REPORTS.

"(a) REPORTS TO THE SECRETARY.—Each agency shall transmit a report to the Secretary, at times specified by the Secretary but at least annually, with complete information on its activities under this part, including information on— 102 STAT. 3188

"(1) the agency's progress in achieving the goals established by section 543; and

"(2) the procedures being used by the agency pursuant to section 546(b), the number of contracts entered into by such agency under title VIII of this Act, the energy and cost savings that have resulted from such contracts, the use of such cost savings under section 546(c), and any problem encountered in entering into such contracts and otherwise implementing section 546.

"(b) REPORTS TO CONGRESS.—The Secretary shall report annually, with respect to each fiscal year beginning after the date of the enactment of this subsection, to the Congress—

"(1) on all activities carried out under this part and on the progress made toward achievement of the objectives of this part, including a copy of the list of the exclusions made under section 543(a)(2);

"(2) the number of contracts entered into by all agencies under title VIII of this Act, the difficulties (if any) encountered in attempting to enter into such contracts, and proposed solutions to those difficulties; and

"(3) the extent and nature of interagency exchange of information concerning the conservation and efficient utilization of energy.

"SEC. 549. DEFINITIONS.

"For the purposes of this part—

"(1) the term 'agency' has the meaning given it in section 551(1) of title 5, United States Code;

"(2) the term 'construction' means new construction or substantial rehabilitation of existing structures;

"(3) the term 'cogeneration facilities' has the same meaning given such term in section 3(18)(A) of the Federal Power Act (16 U.S.C. 796(18)(A));

"(4) the term 'energy conservation measures' means measures that are applied to a Federal building that improve energy efficiency and are life cycle cost effective and that involve energy conservation, cogeneration facilities, renewable energy sources, improvements in operations and maintenance efficiencies, or retrofit activities;

"(5) the term 'energy survey' means a procedure used to determine energy and cost savings likely to result from the use of appropriate energy related maintenance and operating procedures and modifications, including the purchase and installation of particular energy-related equipment and the use of renewable energy sources;

"(6) the term 'Federal building' means any building, structure, or facility, or part thereof, including the associated energy consuming support systems, which is constructed, renovated, leased, or purchased in whole or in part for use by the Federal Government and which consumes energy; such term also means a collection of such buildings, structures, or facilities and the energy consuming support systems for such collection;

"(7) the term 'life cycle cost' means the total costs of owning, operating, and maintaining a building over its useful life (including such costs as fuel, energy, labor, and replacement components) determined on the basis of a systematic evaluation and comparison of alternative building systems, except that in 102 STAT. 3189 the case of leased buildings, the life cycle costs shall be calculated over the effective remaining term of the lease;

"(8) the term 'renewable energy sources' includes, but is not limited to, sources such as agriculture and urban waste, goethermal energy, solar energy, and wind energy; and

"(9) the term 'Secretary' means the Secretary of Energy.".

(b) CONFORMING AMENDMENT.—Section 381(c) of the Energy Policy and Conservation Act (42 U.S.C. 6361(c)) is amended to read as follows:

"(c) The Secretary shall include in the report required under section 548(b) of the National Energy Conservation Policy Act the steps taken under subsections (a) and (b) of this section.".

(c) TECHNICAL AMENDMENT.—Part 3 of title V of the table of contents of the National Energy Conservation Policy Act is amended to read as follows:

"PART 3—FEDERAL ENERGY MANAGEMENT

"Sec. 541. Findings.
"Sec. 542. Purpose.
"Sec. 543. Energy management goals.
"Sec. 544. Establishment and use of life cycle cost methods and procedures.
"Sec. 545. Budget treatment for energy conservation measures.
"Sec. 546. Incentives for agencies.
"Sec. 547. Interagency Energy Management Task Force.
"Sec. 548. Reports.
"Sec. 549. Definitions.".

Public buildings and grounds. 42 USC 8253 note.

SEC. 3. SURVEY OF ENERGY SAVING POTENTIAL.

(a) IN GENERAL.—The Secretary of Energy shall, using funds appropriated to carry out this section, carry out an energy survey, as defined in section 549(5) of the National Energy Conservation Policy Act, for the purposes of—

(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the Federal Government in different areas of the country; and

(2) making recommendations for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar Federal buildings.

(b) IMPLEMENTATION.—(1) The Secretary shall transmit to the Congress, within 180 days after the date on which funds are appropriated to carry out this section, a plan for implementing this section.

(2) The Secretary shall designate buildings to be surveyed in the project so as to obtain a sample of buildings of the types and in the climates that is representative of the buildings owned or leased by Federal agencies in the United States that consume the major portion of the energy consumed in Federal buildings.

(3) For purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of a Federal building or the remaining term of a lease of a building leased by the Federal Government as determined by the life cycle costing methodology developed under section 544 of the National Energy Conservation Policy Act.

(c) PERSONNEL.—(1) In carrying out this section, the Secretary shall utilize personnel who are—

102 STAT. 3190

(A) employees of the Department of Energy; or

(B) selected by the agencies utilizing the buildings which are being surveyed under this section.

(2) Such personnel shall be detailed for the purpose of carrying out this section without any reduction of salary or benefits.

(d) REPORT.—As soon as practicable after the completion of the project carried out under this section, the Secretary shall transmit a report of the findings and conclusions of the project to the Congress and to the agencies who own the buildings involved in such project.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $250,000 to carry out this section.

15 USC 5001.

SEC. 4. PENALTIES FOR ENTERING INTO COMMERCE OF IMITATION FIREARMS.

(a) It shall be unlawful for any person to manufacture, enter into commerce, ship, transport, or receive any toy, look-alike, or imita-

tion firearm unless such firearm contains, or has affixed to it, a marking approved by the Secretary of Commerce, as provided in subsection (b).

(b)(1) Except as provided in paragraph (2) or (3), each toy, look-alike, or imitation firearm shall have as an integral part, permanently affixed, a blaze orange plug inserted in the barrel of such toy, look-alike, or imitation firearm. Such plug shall be recessed no more than 6 millimeters from the muzzle end of the barrel of such firearm.

(2) The Secretary of Commerce may provide for an alternate marking or device for any toy, look-alike, or imitation firearm not capable of being marked as provided in paragraph (1) and may waive the requirement of any such marking or device for any toy, look-alike, or imitation firearm that will only be used in the theatrical, movie or television industry.

(3) The Secretary is authorized to make adjustments and changes in the marking system provided for by this section, after consulting with interested persons.

(c) For purposes of this section, the term "look-alike firearm" means any imitation of any original firearm which was manufactured, designed, and produced since 1898, including and limited to toy guns, water guns, replica nonguns, and air-soft guns firing nonmetallic projectiles. Such term does not include any look-alike, nonfiring, collector replica of an antique firearm developed prior to 1898, or traditional B-B, paint-ball, or pellet-firing air guns that expel a projectile through the force of air pressure.

(d) The Director of the Bureau of Justice Statistics is authorized and directed to conduct a study of the criminal misuse of toy, look-alike and imitation firearms, including studying police reports of such incidences and shall report on such incidences relative to marked and unmarked firearms. Reports.

(c) The Director of National Institute of Justice is authorized and directed to conduct a technical evaluation of the marking systems provided for in subsection (b) to determine their effectiveness in police combat situations. The Director shall begin the study within 3 months after the date of enactment of this section and such study shall be completed within 9 months after such date of enactment.

(f) This section shall become effective on the date 6 months after the date of its enactment and shall apply to toy, look-alike, and imitation firearms manufactured or entered into commerce after such date of enactment. Effective date.

(g) The provisions of this section shall supersede any provision of State or local laws or ordinances which provide for markings or identification inconsistent with provisions of this section provided that no State shall— State and local governments.

(i) prohibit the sale or manufacture of any look-alike, nonfiring, collector replica of an antique firearm developed prior to 1898, or

(ii) prohibit the sale (other than prohibiting the sale to minors) of traditional B-B, paint ball, or pellet-firing air guns that expel a projectile through the force of air pressure.

Approved November 5, 1988.

LEGISLATIVE HISTORY—S. 1382 (H.R. 4065):

HOUSE REPORTS: No. 100-684 accompanying H.R. 4065 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-256 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 18, considered and passed Senate.
Vol. 134 (1988): June 27, 28, H.R. 4065 considered and passed House.
June 29, S. 1382 considered and passed House, amended.
Oct. 11, Senate concurred in House amendments with an amendment.
Oct. 12, House concurred in Senate amendment.

102 STAT. 4073 Public Law 100-680
100th Congress

An Act

Nov. 17, 1988
[S. 2470]

To promote energy conservation and technology competitiveness in the American steel and aluminum industries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988".

Research and development.
15 USC 5101 note.
15 USC 5101.

SEC. 2. FINDINGS AND PURFOSES.

(a) FINDINGS.—The Congress finds that—

(1) maintaining viable domestic steel, aluminum, copper, and other metals industries is vital to the national security and economic well being of the United States; and

(2) the promotion of technology competitiveness and energy conservation in the American steel and aluminum industries by the Federal Government through a program of joint research and development will help maintain viable domestic steel and aluminum industries.

(b) PURPOSES.—The purposes of this Act are to—

(1) increase the energy efficiency and enhance the competitiveness of American steel, aluminum, and copper industries by providing Federal incentives for the establishment of public-private sector research and development partnerships to undertake scientific research and development to develop advanced technologies utilizing the expertise of the steel, aluminum, copper, and other metals industries, Government-owned laboratories of the Department of Energy and the National Institute of Standards and Technology, universities, State development agencies, and others; and

(2) continue steel research and development initiative efforts begun under title II of the Interior and Related Agencies portion of the joint resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes", approved December 19, 1985 (Public Law 99-190).

15 USC 5102.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "Secretary" means the Secretary of Energy;

(2) the term "domestic company" means a company which is substantially involved in the United States domestic production, processing, or use of steel, aluminum, copper, or other metals and has a substantial percentage of its operations located within the United States;

(3) the terms "management plan" and "plan" mean the Steel Initiative Management Plan issued on April 1, 1987, by the Department of Energy, which establishes the management framework for the steel research and development initiative, and updates to that plan; and

102 STAT. 4074

(4) the term "research plan" means the Steel Initiative Research Plan issued in April 1988 by the Department of Energy, and updates to that plan.

15 USC 5103.

SEC. 4. ESTABLISHMENT OF SCIENTIFIC RESEARCH AND DEVELOPMENT PROGRAM TO DEVELOP COMPETITIVE MANUFACTURING TECHNOLOGIES AND INCREASE ENERGY EFFICIENCY IN THE STEEL AND ALUMINUM INDUSTRIES.

(a) GENERAL AUTHORITY.—The Secretary, pursuant to the authority provided under provisions of the Federal Nonnuclear Research and Development Act of 1974 (42 U.S.C. 5901, et seq.), shall reestablish an industrial energy conservation and competitive technology

program to conduct scientific research and development of steel and aluminum technologies to carry out the purposes of this Act. Such program shall provide the financial and technical assistance and other incentives which, in the judgment of the Secretary, are necessary to carry out the purposes of this Act.

(b) MANAGEMENT PLAN.—Within 6 months after the date of enactment of this Act, the Secretary shall publish an update of the management plan to expand the steel research and development initiative to include aluminum and to carry out the purposes of this Act. The Secretary, from time to time, may further update the management plan. The management plan shall be subject to the following conditions:

(1) For newly initiated research and development proposals submitted under the revised management plan, the non-Federal financial share shall equal at least 30 percent of the total cost of any project.

(2) Existing facilities, equipment, supplies, and other property may be included in the non-Federal share under this section only when they are directly relevant to the project.

(3) The knowledge resulting from research and development activities conducted under this Act shall be developed for the benefit of the domestic companies who provide financial resources to the program.

(4) The Secretary, for a period of up to 5 years after the development of information that— Classified information.

(A) results from research and development activities conducted under this Act; and

(B) would be a trade secret or commercial or financial information that is privileged or confidential, as described in section 5(a), if the information had been obtained from a domestic company,

may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code.

(5) The plan shall assure basic research support, for the research carried out under the research plan, from independent laboratories, universities, and nonprofit organizations, by coordinating activities under the research plan with the basic research efforts of the Department of Energy, such as the Energy Conversion and Utilization Technologies Program and the Materials Processing and Sensor and Controls programs within the Office of Industrial Programs.

102 STAT. 4075

(c) PRIORITIES.—Within 6 months after the date of enactment of this Act, the Secretary shall publish an update of the research plan. In reviewing research and development activities for possible inclusion in the research plan, the Secretary shall consider the following:

(1) STEEL PROJECTS.—

(A) The direct production of liquid steel from domestic materials.

(B) The production of near-net shape forms from liquid, powder, or solid steel.

(C) The development of universal grades of steel.

(D) The application of automatic processing technology.

(E) The removal of residual elements from steel scrap.

(F) The treatment and storage of waste materials and other byproducts from steel production and processing.

(G) The development of super-plastic steel processing.

(H) The development of advanced coatings for sheet steels.

(I) The development of technologies and equipment related to the production of steel that enhance the protection of the environment and the safety and health of workers.

(J) Other steel technologies which, in the judgment of the Secretary, further the purposes of this Act.

(2) ALUMINUM AND OTHER PROJECTS.—

(A) The production of aluminum.

(B) The application of automatic processing technology.

(C) The treatment and storage of waste materials and other byproducts from aluminum production and processing.

(D) The manufacture of aluminum mill products.

(E) Aluminum recycling technologies.

(F) The development of technologies and equipment related to the production of aluminum that enhance the protection of the environment and the safety and health of workers.

(G) Aluminum, copper, and other metals technologies which, in the judgment of the Secretary, further the purposes of this Act.

(d) INDUSTRY PARTICIPATION AND REVIEW.—The Secretary shall arrange for participation and review by representatives of each affected industry and by labor in the updating of the management and research plans and in the evaluation of the progress of research and development activities for their industry conducted under this Act.

15 USC 5104.

SEC. 5. PROTECTION OF PROPRIETARY RIGHTS.

Classified information.

(a) PROPRIETARY RIGHTS.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a domestic company shall be disclosed in the conduct of the management plan or research plan, or as a result of activities under this Act.

(b) PATENT RIGHTS VESTED IN THE UNITED STATES.—All patent rights from inventions developed under the management plan or the research plan implemented pursuant to this Act shall be vested in accordance with section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901).

102 STAT. 4076

15 USC 5105.

SEC. 6. COORDINATION.

The Secretary shall coordinate the research and development conducted under this Act with other research and development being conducted by the Department of Energy and other Federal agencies in order to increase efficiency and avoid duplication of effort.

15 USC 5106.

SEC. 7. EXPANDED STEEL AND ALUMINUM RESEARCH PROGRAM IN NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

The National Institute of Standards and Technology, through its Institute for Materials Science and Engineering and, as appropriate, in coordination with the Department of Energy and other Federal agencies, shall conduct an expanded program of steel and aluminum research to provide necessary instrumentation and measurement research and development in support of activities conducted under this Act.

15 USC 5107.

SEC. 8. REPORTS.

The Secretary shall prepare and submit annually to the President and the Congress at the close of each fiscal year a complete report of the research and development activities carried out under this Act during the fiscal year involved, including the actual and anticipated obligation of funds, for such activities, together with such recommendations as the Secretary may consider appropriate for further legislative, administrative, and other actions, including actions by the American steel, aluminum, copper, and other metals industries, which should be taken in order to achieve the purposes of this Act. The report submitted at the close of fiscal year 1991 shall also contain a complete summary of activities under the management plan and the research plan from the first year of their operation, along with an analysis of the extent to which they have succeeded in accomplishing the purposes of this Act.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS. 15 USC 5108.

(a) TO THE SECRETARY.—(1) There are authorized to be appropriated to the Secretary, to carry out the functions of the Department of Energy under this Act, $2,000,000 for fiscal year 1989, $20,000,000 for fiscal year 1990, and $25,000,000 for fiscal year 1991.

(2) Funds previously appropriated for the steel research and development initiative—

(A) under title II of the Interior and Related Agencies portion of the joint resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes", approved December 19, 1985 (Public Law 99-190); or

(B) under subsequent appropriation Acts,

which remain available under the terms of such Acts may be used for the purposes of this Act.

(b) TO THE INSTITUTE.—There are authorized to be appropriated to the Director of the National Institute of Standards and Technology to carry out the functions of the Institute under this Act, $3,000,000 for each of the fiscal years 1989, 1990, and 1991.

SEC. 10. RELATION OF EXISTING PROGRAM. 15 USC 5109.

Proposals received by the Department of Energy before the date of enactment of this Act may be carried out without regard to changes in the management plan and research plan required by this Act. 102 STAT. 4077

SEC. 11. DRUG-FREE WORKPLACE. 15 USC 5110.

(a) No department, agency, or instrumentality of the United States receiving funds authorized to be appropriated under this Act for fiscal year 1989, fiscal year 1990, or fiscal year 1991, or under any other Act authorizing appropriations for fiscal year 1989, fiscal year 1990, or fiscal year 1991, shall obligate or spend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its work places are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

(b) No funds so authorized to be appropriated to any such department, agency, or instrumentality shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contract, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by such recipient, contractor, or party's board of directors or other governing authority, satisfactory to the head of the department, agency, or instrumentality making such payment, designed to ensure that all of the workplace of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

Approved November 17, 1988.

LEGISLATIVE HISTORY—S. 2470:

HOUSE REPORTS: No. 100-1061 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-443 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 9, considered and passed Senate.
Oct. 12, considered and passed House, amended.
Oct. 21, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Nov. 17, Presidential statement.

Public Law 100-465
100th Congress

102 STAT. 2272

An Act

To authorize the Secretary of State to conclude agreements with the appropriate representative of the Government of Mexico to correct pollution of the Rio Grande.

Oct. 3, 1988
[H.R. 2046]

Be it enacted by the Senate and House of Represenatatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Rio Grande Pollution Correction Act of 1987.
22 USC 277 note.

This Act may be cited as the "Rio Grande Pollution Correction Act of 1987".

SEC. 2. AGREEMENTS TO CORRECT POLLUTION OF RIO GRANDE.

22 USC 277g.

(a) IN GENERAL.—The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico (hereafter in this Act referred to as the "Commissioner"), is authorized to conclude agreements with the appropriate representative of the Ministry of Foreign Relations of Mexico for the purpose of correcting the international problem of pollution of the Rio Grande caused by discharge of raw and inadequately treated sewage and other wastes into such river from the border cities including but not limited to Ciudad Acuna, Nuevo Laredo, and Reynosa, Mexico, and Del Rio, Laredo, and Hidalgo, Texas.

Texas.

(b) CONTENT OF AGREEMENTS.—Agreements concluded under subsection (a) should consist of recommendations to the Governments of the United States and Mexico of measures to protect the health and welfare of persons along the Rio Grande from the effects of pollution, including—

Public health and safety.

(1) facilities that should be constructed, operated, and maintained in each country;

(2) estimates of the cost of plans, construction, operation, and maintenance of the facilities referred to in paragraph (1);

(3) formulas for the initial division between the United States and Mexico of the cost of plans, constructions, operation, and maintenance of the facilities referred to in paragraph (1);

(4) a method for review and adjustment of the formulas referred to in paragraph (3) at intervals of five years which recognizes that such initial formulas should not be used as a precedent in their subsequent review and adjustment; and

(5) dates for the beginning and completion of construction of the facilities referred to in paragraph (1).

SEC. 3. AUTHORITY OF SECRETARY OF STATE TO PLAN, CONSTRUCT, OPERATE, AND MAINTAIN FACILITIES.

22 USC 277g-1.

The Secretary of State, acting through the Commissioner, is authorized to act jointly with the appropriate representative of the Government of Mexico and to—

(1) supervise the planning of, and

(2) supervise construction, operation, and maintenance of, the facilities recommended in agreements concluded pursuant to section 2 and approved by the Governments of the United States and Mexico.

102 STAT. 2273

22 USC 277g-2.

SEC. 4. CONSULTATION WITH THE ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY AND OTHER AUTHORITIES.

The Secretary of State shall consult with the Administrator of the Environmental Protection Agency and other concerned Federal, State, and local government officials in implementing this Act.

22 USC 277g-3.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary for the United States to fund its share of the cost of the plans, construction, operation, and maintenance of the facilities recommended in agreements concluded pursuant to section 2 and approved by the Governments of the United States and Mexico.

Approved October 3, 1988.

LEGISLATIVE HISTORY—H.R. 2046:

CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 19, considered and passed House.
Vol. 134 (1988): Sept. 19, considered and passed Senate.

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102 STAT. 2306 Public Law 100-478
100th Congress

An Act

Oct. 7, 1988
[H.R. 1467]

To authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes.

Wildlife.
Conservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ENDANGERED SPECIES ACT AMENDMENTS OF 1988

SEC. 1001. DEFINITIONS.

(a) DEFINITION OF PERSON.—Paragraph (13) of section 3 of the Endangered Species Act (16 U.S.C. 1532) is amended to read as follows:

"(13) The term 'person' means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government; any State, municipality, or political subdivision of a State; or any other entity subject to the jurisdiction of the United States.".

(b) DEFINITION OF SECRETARY.—Paragraph (15) of section 3 of the Endangered Species Act (16 U.S.C. 1532) is amended by inserting "also" before "means the Secretary of Agriculture".

SEC. 1002. LISTING.

(a) CANDIDATE SPECIES.—Subparagraph (C) of section 4(b)(3) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(3)(C)) is amended by adding at the end thereof the following clause:

"(iii) The Secretary shall implement a system to monitor effectively the status of all species with respect to which a finding is made under subparagraph (B)(iii) and shall make prompt use of the authority under paragraph 7 to prevent a significant risk to the well being of any such species.".

(b) SIMILARITY OF APPEARANCE.—Subsection (e) of such section 4 (16 U.S.C. 1533(e)) is amended by striking out "regulation," and inserting in lieu thereof "regulation of commerce or taking,".

SEC. 1003. RECOVERY PLANS.

Section 4(f) of the Endangered Species Act (16 U.S.C. 1533(f)) is amended to read as follows:

"(f)(1) RECOVERY PLANS.—The Secretary shall develop and implement plans (hereinafter in this subsection referred to as 'recovery plans') for the conservation and survival of endangered species and threatened species listed pursuant to this section, unless he finds that such a plan will not promote the conservation of the species. The Secretary, in developing and implementing recovery plans, shall, to the maximum extent practicable— 102 STAT. 2307

"(A) give priority to those endangered species or threatened species, without regard to taxonomic classification, that are most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity;

"(B) incorporate in each plan—

"(i) a description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species;

"(ii) objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of this section, that the species be removed from the list; and

"(iii) estimates of the time required and the cost to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal.

"(2) The Secretary, in developing and implementing recovery plans, may procure the services of appropriate public and private agencies and institutions, and other qualified persons. Recovery teams appointed pursuant to this subsection shall not be subject to the Federal Advisory Committee Act.

"(3) The Secretary shall report every two years to the Committee on Environment and Public Works of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives on the status of efforts to develop and implement recovery plans for all species listed pursuant to this section and on the status of all species for which such plans have been developed. Reports.

"(4) The Secretary shall, prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan. Public information.

"(5) Each Federal agency shall, prior to implementation of a new or revised recovery plan, consider all information presented during the public comment period under paragraph (4).".

SEC. 1004. MONITORING OF RECOVERED SPECIES.

Section 4 of the Endangered Species Act (16 U.S.C. 1533) is amended by redesignating subsections (g) and (h) as subsections (h) and (i) and by inserting the following new subsection:

"(g) MONITORING.—(1) The Secretary shall implement a system in cooperation with the States to monitor effectively for not less than five years the status of all species which have recovered to the point at which the measures provided pursuant to this Act are no longer necessary and which, in accordance with the provisions of this section, have been removed from either of the lists published under subsection (c).

"(2) The Secretary shall make prompt use of the authority under paragraph 7 of subsection (b) of this section to prevent a significant risk to the well being of any such recovered species.".

SEC. 1005. COOPERATION WITH THE STATES.

(a) MONITORING OF RECOVERED SPECIES.—Paragraph (1) of section 6(d) of the Endangered Species Act (16 U.S.C. 1535(d)(1)) is amended to read as follows:

"(d) ALLOCATION OF FUNDS.—(1) The Secretary is authorized to provide financial assistance to any State, through its respective

102 STAT. 2308

State agency, which has entered into a cooperative agreement pursuant to subsection (c) of this section to assist in development of programs for the conservation of endangered and threatened species or to assist in monitoring the status of candidate species pursuant to subparagraph (C) of section 4(b)(3) and recovered species pursuant to section 4(g). The Secretary shall allocate each annual appropriation made in accordance with the provisions of subsection (i) of this section to such States based on consideration of—

"(A) the international commitments of the United States to protect endangered species or threatened species;

"(B) the readiness of a State to proceed with a conservation program consistent with the objectives and purposes of this Act;

"(C) the number of endangered species and threatened species within a State;

"(D) the potential for restoring endangered species and threatened species within a State;

"(E) the relative urgency to initiate a program to restore and protect an endangered species or threatened species in terms of survival of the species;

"(F) the importance of monitoring the status of candidate species within a State to prevent a significant risk to the well being of any such species; and

"(G) the importance of monitoring the status of recovered species within a State to assure that such species do not return to the point at which the measures provided pursuant to this Act are again necessary.

So much of the annual appropriation made in accordance with provisions of subsection (i) of this section allocated for obligation to any State for any fiscal year as remains unobligated at the close thereof is authorized to be made available to that State until the close of the succeeding fiscal year. Any amount allocated to any State which is unobligated at the end of the period during which it is available for expenditure is authorized to be made available for expenditure by the Secretary in conducting programs under this section.".

(b) APPROPRIATIONS.—Section 6 of the Endangered Species Act (16 U.S.C. 1535) is amended by adding the following new subsection:

"(i) APPROPRIATIONS.—(1) To carry out the provisions of this section for fiscal years after September 30, 1988, there shall be deposited into a special fund known as the cooperative endangered species conservation fund, to be administered by the Secretary, an amount equal to 5 percent of the combined amounts covered each fiscal year into the Federal aid to wildlife restoration fund under section 3 of the Act of September 2, 1937, and paid, transferred, or otherwise credited each fiscal year to the Sport Fishing Restoration Account established under 1016 of the Act of July 18, 1984.

"(2) Amounts deposited into the special fund are authorized to be appropriated annually and allocated in accordance with subsection (d) of this section.".

SEC. 1006. PROTECTION OF PLANTS.

Section 9(a)(2)(B) of the Endangered Species Act (16 U.S.C. 1538(a)(2)(B)) is amended to read as follows:

"(B) remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any such area; or remove, cut, dig up, or damage or destroy any such species on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law;".

102 STAT. 2309

SEC. 1007. PENALTIES AND ENFORCEMENT..

(a) CIVIL PENALTIES.—Paragraph (1) of subsection (a) of section 11 of the Endangered Species Act (16 U.S.C. 1540) is amended by striking "$10,000" and inserting in lieu thereof "$25,000", and by striking "$5,000" and inserting in lieu thereof "$12,000".

(b) CRIMINAL VIOLATIONS.—Paragraph (1) of subsection (b) of section 11 of the Endangered Species Act (16 U.S.C. 1540) is amended by striking "$20,000" and inserting in lieu thereof "$50,000", and by striking "$10,000" and inserting in lieu thereof "$25,000".

(c) REWARDS.—Subsection (d) of section 11 of the Endangered Species Act (16 U.S.C. 1540) is amended by adding at the end thereof the following sentence; "Whenever the balance of sums received under this section and section 6(d) of the Act of November 16, 1981 (16 U.S.C. 3375(d)), as penalties or fines, or from forfeitures of property, exceed $500,000, the Secretary of the Treasury shall deposit an amount equal to such excess balance in the cooperative endangered species conservation fund established under section 6(i) of this Act.".

SEC. 1008. SEA TURTLE CONSERVATION.

(a) DELAY OF REGULATIONS.—The Secretary of Commerce shall delay the effective date of regulations promulgated on June 29, 1987, relating to sea turtle conservation, until May 1, 1990, in inshore areas, and until May 1, 1989, in offshore areas, with the exception that regulations already in effect in the Canaveral area of Florida shall remain in effect. The regulations for the inshore area shall go into effect beginning May 1, 1990, unless the Secretary determines that other conservation measures are proving equally effective in reducing sea turtle mortality by shrimp trawling. If the Secretary makes such a determination, the Secretary shall modify the regulations accordingly.

Effective dates.
Florida.

(b) STUDY.—

(1) IN GENERAL.—The Secretary of Commerce shall contract for an independent review of scientific information pertaining to the conservation of each of the relevant species of sea turtles to be conducted by the National Academy of Sciences with such individuals not employed by Federal or State government other than employees of State universities and having scientific expertise and special knowledge of sea turtles and activities that may affect adversely sea turtles.

Contracts.

(2) PURPOSES OF REVIEW.—The purposes of such independent review are—

(i) to further long-term conservation of each of the relevant species of sea turtles which occur in the waters of the United States;

(ii) to further knowledge of activities performed in the waters and on the shores of the United States, Mexico and other nations which adversely affect each of the relevant species of sea turtles;

(iii) to determine the relative impact which each of the activities found to be having an adverse effect on each of the relevant species of turtles has upon the status of each such species;

102 STAT. 2310

(iv) to assist in identifying appropriate conservation and recovery measures to address each of the activities which affect adversely each of the relevant species of sea turtles;

(v) to assist in identifying appropriate reproductive measures which will aid in the conservation of each of the relevant species of sea turtles;

(vi) in particular to assist in determining whether more or less stringent measures to reduce the drowning of sea turtles in shrimp nets are necessary and advisable to provide for the conservation of each of the relevant species of sea turtles and whether such measures should be applicable to inshore and offshore areas as well as to various geographical locations; and

(vii) to furnish information and other forms of assistance to the Secretary for his use in reviewing the status of each of the relevant species of sea turtles and in carrying out other responsibilities contained under this Act and law.

(3) SCOPE OF REVIEW.—The terms and outlines of such independent review shall be determined by a panel to be ap-

pointed by the President of the National Academy of Sciences, except that such review shall include, at a minimum, the following information:

(i) estimates of the status, size, age structure and, where possible, sex structure of each of the relevant species of sea turtles;

(ii) the distribution and concentration, in terms of United States geographic zones, of each of the relevant species of sea turtles;

(iii) the distribution and concentration of each of the relevant species of sea turtles, in the waters of the United States, Mexico and other nations during the developmental, migratory and reproductive phases of their lives;

(iv) identification of all causes of mortality, in the waters and on the shores of the United States, Mexico and other nations for each of the relevant species of sea turtles;

(v) estimates of the magnitude and significance of each of the identified causes of turtle mortality;

(vi) estimates of the magnitude and significance of present or needed head-start or other programs designed to increase the production and population size of each of the relevant species of sea turtles;

(vii) description of the measures taken by Mexico and other nations to conserve each of the relevant species of sea turtles in their waters and on their shores, along with a description of the efforts to enforce these measures and an assessment of the success of these measures;

(viii) the identification of nesting and/or reproductive locations for each of the relevant species of sea turtles in the waters and on the shores of the United States, Mexico and other nations and measures that should be undertaken at each location as well as a description of worldwide efforts to protect such species of turtles.

(4) COMPLETION AND SUBMISSION OF REVIEW.—Such independent review shall be completed after an opportunity is provided for individuals with scientific and special knowledge of sea turtles and activities that may affect adversely sea turtles to present relevant information to the panel. It shall then be submitted by the Secretary, together with recommendations by the Secretary in connection therewith, to the Committee on Environment and Public Works of the United States Senate and the Committee on Merchant Marine and Fisheries of the United States House of Representatives on or before April 1, 1989. In the event the independent review cannot be completed by April 1, 1989, then the panel shall give priority to completing the independent review as it applies to the Kemp's ridley sea turtle and submitting the same to the Secretary by that date, or as expeditiously as possible, and thereafter shall complete as expeditiously as possible the remaining work of the independent review.

102 STAT. 2311

(5) REVIEW OF STATUS.—After receipt of any portion of the independent review from the panel, the Secretary shall review the status of each of the relevant species of sea turtles.

(6) RECOMMENDATIONS OF SECRETARY.—The Secretary, after receipt of any portion of the independent review from the panel, shall consider, along with the requirements of existing law, the following before making recommendations:

(i) reports from the panel conducting the independent review;

(ii) written views and information of interested parties;

(iii) the review of the status of each of the relevant species of sea turtles;

(iv) the relationship of any more or less stringent measures to reduce the drowning of each of the relevant species of sea turtles in shrimp nets to the overall conservation plan for each such species;

(v) whether increased reproductive or other efforts in behalf of each of the relevant species of sea turtles would make no longer necessary and advisable present or proposed conservation regulations regarding shrimping nets;

(vi) whether certain geographical areas such as, but not limited to, inshore areas and offshore areas, should have more stringent, less stringent or different measures imposed upon them in order to reduce the drowning of each of the relevant species of sea turtles in shrimp nets;

(vii) other reliable information regarding the relationship between each of the relevant species of sea turtles and shrimp fishing and other activities in the waters of the United States, Mexico and other nations of the world; and

(viii) the need for improved cooperation among departments, agencies and entities of Federal and State government, the need for improved cooperation with other nations and the need for treaties or international agreements on a bilateral or multilateral basis.

(7) MODIFICATION OF REGULATIONS.—For good cause, the Secretary may modify the regulations promulgated on June 29, 1987, relating to sea turtle conservation, in whole or part, as the Secretary deems advisable.

(8) SECRETARY AND EDUCATIONAL EFFORTS.—The Secretary shall undertake an educational effort among shrimp fishermen, either directly or by contract with competent persons or entities, to instruct fishermen in the usage of the turtle excluder device or any other device which might be imposed upon such fishermen;

Fish and fishing. Contracts.

102 STAT. 2312

(9) SEA TURTLE COORDINATION.—In order to coordinate the protection, conservation, reproductive, educational and recovery efforts with respect to each of the relevant species of sea turtles in accordance with existing law, the National Marine Fisheries Service shall designate an individual as Sea Turtle Coordinator to establish and carry out an effective, long-term sea turtle recovery program.

(10) PURPOSE OF THIS SECTION.—Section 8 is intended to assist the Secretary in making recommendations and in carrying out his duties under law, including the Endangered Species Act (16 U.S.C. 1531 et seq.), and nothing herein affects, modifies or alters the Secretary's powers or responsibilities to review, determine or redetermine, at any time, his obligations under law.

(11) DEFINITIONS.—For the purposes of this section, the terms:

(i) "relevant species of sea turtles" means the Kemp's ridley sea turtle, United States breeding populations of the loggerhead, the leatherback, and the green sea turtle, and other significant breeding populations of the loggerhead, the leatherback and the green sea turtle;

(ii) "status" means whether a given species of turtle is endangered, threatened or recovered;

(iii) "size" means the size of a given species of sea turtle; and

(iv) "age and sex structure" shall be considered to mean the distribution of juveniles, subadults and adults within a given species or population of sea turtles, and males and females within a given species or population of sea turtles.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce $1,500,000 through fiscal year 1989 to carry out this section.

SEC. 1009. AUTHORIZATION OF APPROPRIATIONS.

Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 15. (a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), there are authorized to be appropriated—

"(1) not to exceed $35,000,000 for fiscal year 1988, $36,500,000 for fiscal year 1989, $38,000,000 for fiscal year 1990, $39,500,000 for fiscal year 1991, and $41,500,000 for fiscal year 1992 to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act;

"(2) not to exceed $5,750,000 for fiscal year 1988, $6,250,000 for each of fiscal years 1989 and 1990, and $6,750,000 for each of fiscal years 1991 and 1992 to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act; and

"(3) not to exceed $2,200,000 for fiscal year 1988, $2,400,000 for each of fiscal years 1989 and 1990, and $2,600,000 for each of fiscal years 1991 and 1992, to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this Act and the Convention which pertain to the importation or exportation of plants.

102 STAT. 2313

"(b) EXEMPTIONS FROM ACT.—There are authorized to be appropriated to the Secretary to assist him and the Endangered Species Committee in carrying out their functions under sections 7 (e), (g), and (h) not to exceed $600,000 for each of fiscal years 1988, 1989, 1990, 1991, and 1992.

"(c) CONVENTION IMPLEMENTATION.—There are authorized to be appropriated to the Department of the Interior for purposes of carrying out section 8A(e) not to exceed $400,000 for each of fiscal years 1988, 1989, and 1990, and $500,000 for each of fiscal years 1991 and 1992, and such sums shall remain available until expended.".

Agriculture and agricultural commodities.
Pests and pesticides.
7 USC 136a note.

SEC. 1010. EDUCATION, STUDY AND REPORT.

(a) EDUCATION.—The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior, promptly upon enactment of this Act, shall conduct a program to inform and educate fully persons engaged in agricultural food and fiber commodity production of any proposed pesticide labeling program or requirements that may be imposed by the Administrator in compliance with the Endangered Species Act (16 U.S.C. 1531 et seq.). The Administrator also shall provide the public with notice of, and opportunity for comment on, the elements of any such program and requirements based on compliance with the Endangered Species Act, including (but not limited to) an identification of any pesticides affected by the program; an explanation of the restriction or prohibition on the user or applicator of any such pesticide; an identification of those geographic areas affected by any pesticide restriction or prohibition; an identification of the effects of any restricted or prohibited pesticide on endangered or threatened species; and an identification of the endangered or threatened species along with a general description of the geographic areas in which such species are located wherein the application of a pesticide will be restricted, prohibited, or its use otherwise limited, unless the Secretary of the Interior determines that the disclosure of such information may create a substantial risk of harm to such species or its habitat.

Public information.

(b) STUDY.—The Administrator of the Environmental Protection Agency, jointly with the Secretary of Agriculture and the Secretary of the Interior, shall conduct a study to identify reasonable and prudent means available to the Administrator to implement the endangered species pesticides labeling program which would comply with the Endangered Species Act of 1973, as amended, and which would allow persons to continue production of agricultural food and fiber commodities. Such study shall include investigation by the Administrator of the best available methods to develop maps and the best available alternatives to mapping as means of identifying those circumstances in which use of pesticides may be restricted; identification of alternatives to prohibitions on pesticide use, including, but not limited to, alternative pesticides and application methods and other agricultural practices which can be used in lieu of any

pesticides whose use may be restricted by the labeling program; examination of methods to improve coordination among the Environmental Protection Agency, Department of Agriculture, and Department of the Interior in administration of the labeling program; and analysis of the means of implementing the endangered species pesticides labeling program or alternatives to such a program, if any, to promote the conservation of endangered or threatened species and to minimize the impacts to persons engaged in agricultural food and fiber commodity production and other affected pesticide users and applicators. 102 STAT. 2314

(c) REPORT.—The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior shall submit a report within one year of the date of enactment of this Act, presenting the results of the study conducted pursuant to subsection (b) of this section to the Committee on Merchant Marine and Fisheries and the Committee on Agriculture of the United States House of Representatives, and the Committee on Environment and Public Works and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate.

SEC. 1011. SCRIMSHAW CERTIFICATES.

(a) Section 10(f)(8)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)(A)) is amended to read as follows:

"(8)(A)(i) Any valid certificate of exemption which was renewed after October 13, 1982, and was in effect on March 31, 1988, shall be deemed to be renewed for a six-month period beginning on the date of enactment of the Endangered Species Act Amendments of 1988. Any person holding such a certificate may apply to the Secretary for one additional renewal of such certificate for a period not to exceed 5 years beginning on the date of such enactment.". Effective date.

(b) Section 10(f)(8)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)(b)) is amended by striking "original" and inserting "previous".

(c) Section 10(f)(8) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)) is amended by adding at the end thereof the following subparagraph:

"(D) No person may, after January 31, 1984, sell or offer for sale in interstate or foreign commerce, any pre-Act finished scrimshaw product unless such person holds a valid certificate of exemption issued by the Secretary under this subsection, and unless such product or the raw material for such product was held by such person on October 13, 1982.". Commerce and trade

(d) Section 10(f) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)) is amended by striking paragraph (9).

SEC. 1012. FEDERAL COST OF PROTECTING ENDANGERED SPECIES.

The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is amended by adding at the end thereof the following new section:

"ANNUAL COST ANALYSIS BY THE FISH AND WILDLIFE SERVICE

"SEC. 18. On or before January 15, 1990, and each January 15 thereafter, the Secretary of the Interior, acting through the Fish and Wildlife Service, shall submit to the Congress an annual report covering the preceding fiscal year which shall contain— Reports. 16 USC 1544.

"(1) an accounting on a species by species basis of all reasonably identifiable Federal expenditures made primarily for the conservation of endangered or threatened species pursuant to this Act; and

"(2) an accounting on a species by species basis of all reasonably identifiable expenditures made primarily for the conservation of endangered or threatened species pursuant to this Act by States receiving grants under section 6.".

102 STAT. 2315

SEC. 1013. TECHNICAL AMENDMENTS.

(a) In section 2 of the Endangered Species Act of 1973 (16 U.S.C. 1531), strike "(G) other international agreements." and insert "(G) other international agreements; and".

(b) In section 10(c) of the Endangered Species Act of 1973 (16 U.S.C. 1539), strike "notice," in the second sentence and insert "notice, of".

(c) In section 10(e)(3)(ii) of the Endangered Species Act of 1973 (16 U.S.C. 1539), strike "lacking," and insert "lacing,".

African Elephant Conservation Act.

TITLE II—AFRICAN ELEPHANT CONSERVATION

16 USC 4201 note.

SEC. 2001. SHORT TITLE.

This title may be cited as the "African Elephant Conservation Act".

16 USC 4201.

SEC. 2002. STATEMENT OF PURPOSE.

The purpose of this title is to perpetuate healthy populations of African elephants.

16 USC 4202.

SEC. 2003. FINDINGS.

The Congress finds the following:

(1) Elephant populations in Africa have declined at an alarming rate since the mid-1970's.

(2) The large illegal trade in African elephant ivory is the major cause of this decline and threatens the continued existence of the African elephant.

(3) The African elephant is listed as threatened under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and its continued existence will be further jeopardized if this decline is not reversed.

(4) Because African elephant ivory is indistinguishable from Asian elephant ivory, there is a need to ensure that the trade in African elephant ivory does not further endanger the Asian elephant, which is listed as endangered under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) and under Appendix I of CITES.

(5) In response to the significant illegal trade in African elephant ivory, the parties to CITES established the CITES Ivory Control System to curtail the illegal trade and to encourage African countries to manage, conserve, and protect their African elephant populations.

(6) The CITES Ivory Control System entered into force recently and should be allowed to continue in force for a reasonable period of time to assess its effectiveness in curtailing the illegal trade in African elephant ivory.

(7) Although some African countries have effective African elephant conservation programs, many do not have sufficient resources to properly manage, conserve, and protect their elephant populations.

(8) The United States, as a party to CITES and a large market for worked ivory, shares responsibility for supporting and implementing measures to stop the illegal trade in African elephant ivory and to provide for the conservation of the African elephant.

102 STAT. 2316

(9) There is no evidence that sport hunting is part of the poaching that contributes to the illegal trade in African elephant ivory, and there is evidence that the proper utilization of well-managed elephant populations provides an important source of funding for African elephant conservation programs.

SEC. 2004. STATEMENT OF POLICY. 16 USC 4203.

It is the policy of the United States—

(1) to assist in the conservation and protection of the African elephant by supporting the conservation programs of African countries and the CITES Secretariat; and

(2) to provide financial resources for those programs.

PART I—AFRICAN ELEPHANT CONSERVATION ASSISTANCE

Research and development.

SEC. 2101. PROVISION OF ASSISTANCE. 16 USC 4211.

(a) IN GENERAL.—The Secretary may provide financial assistance under this part from the African Elephant Conservation Fund for approved projects for research, conservation, management, or protection of African elephants.

(b) PROJECT PROPOSAL.—Any African government agency responsible for African elephant conservation and protection, the CITES Secretariat, and any organization or individual with experience in African elephant conservation may submit to the Secretary a project proposal under this section. Each such proposal shall contain—

(1) the name of the person responsible for conducting the project;

(2) a succinct statement of the need for and purposes of the project;

(3) a description of the qualifications of the individuals who will be conducting the project;

(4) an estimate of the funds and time required to complete the project;

(5) evidence of support of the project by governmental entities of countries within which the project will be conducted, if such support may be important for the success of the project; and

(6) any other information the Secretary considers to be necessary or appropriate for evaluating the eligibility of the project for funding under this title.

(c) PROJECT REVIEW AND APPROVAL.—The Secretary shall review each project proposal to determine if it meets the criteria set forth in subsection (d) and otherwise merits assistance under this title. Not later than six months after receiving a project proposal, and subject to the availability of funds, the Secretary shall approve or disapprove the proposal and provide written notification to the person who submitted the proposal and to each country within which the project is proposed to be conducted.

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a project under this section if the project will enhance programs for African elephant research, conservation, management, or protection by—

(1) developing in a usable form sound scientific information on African elephant habitat condition and carrying capacity, total elephant numbers and population trends, or annual reproduction and mortality; or 102 STAT. 2317

(2) assisting efforts—

(A) to ensure that any taking of African elephants in the country is effectively controlled and monitored;

(B) to implement conservation programs to provide for healthy, sustainable African elephant populations; or

(C) to enhance compliance with the CITES Ivory Control System. Ivory.

(e) PROJECT REPORTING.—Each entity that receives assistance under this section shall provide such periodic reports to the Director of the United States Fish and Wildlife Service as the Director considers relevant and appropriate. Each report shall include all information requested by the Director for evaluating the progress and success of the project.

16 USC 4212.

SEC. 2102. AFRICAN ELEPHANT CONSERVATION FUND.

(a) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account to be known as the "African Elephant Conservation Fund", which shall consist of amounts deposited into the Fund by the Secretary of the Treasury under subsection (b).

(b) DEPOSITS INTO FUND.—The Secretary of the Treasury shall deposit into the Fund—

(1) subject to appropriations, all amounts received by the United States in the form of penalties under section 2204 which are not used to pay rewards under section 2205;

(2) amounts received by the Secretary of the Interior in the form of donations under subsection (d); and

(3) other amounts appropriated to the Fund to carry out this part.

(c) USE.—

(1) IN GENERAL.—Subject to paragraph (2), amounts in the Fund may be used by the Secretary, without further appropriation, to provide assistance under this part.

(2) ADMINISTRATION.—Not more than three percent of amounts appropriated to the Fund for a fiscal year may be used by the Secretary to administer the Fund for that fiscal year.

(d) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations of funds to provide assistance under this part. Amounts received by the Secretary in the form of such donations shall be transferred by the Secretary to the Secretary of the Treasury for deposit into the Fund.

SEC. 2103. ANNUAL REPORTS.

The Secretary shall submit an annual report to the Congress not later than January 31 of each year regarding the Fund and the status of the African elephant. Each such report shall include with respect to the year for which the report is submitted a description of—

(1) the total amounts deposited into and expended from the Fund;

(2) the costs associated with the administration of the Fund;

(3) a summary of the projects for which the Secretary has provided assistance under this part and an evaluation of those projects; and

102 STAT. 2318

(4) an evaluation of African elephant populations and whether the CITES Ivory Control System is functioning effectively to control the illegal trade in African elephant ivory.

PART II—MORATORIA AND PROHIBITED ACTS

Exports.
Imports.
Ivory.
16 USC 4221.

SEC. 2201. REVIEW OF AFRICAN ELEPHANT CONSERVATION PROGRAMS.

(a) IN GENERAL.—Within one month after the date of the enactment of this title, the Secretary shall issue a call for information on the African elephant conservation program of each ivory producing country by—

Federal Register, publication.

(1) publishing a notice in the Federal Register requesting submission of such information to the Secretary by all interested parties; and

(2) submitting a written request for such information through the Secretary of State to each ivory producing country.

(b) REVIEW AND DETERMINATION.—

Federal Register, publication.

(1) IN GENERAL.—The Secretary shall review the African elephant conservation program of each ivory producing country and, not later than one year after the date of the enactment of this title, shall issue and publish in the Federal Register a determination of whether or not the country meets the following criteria:

(A) The country is a party to CITES and adheres to the CITES Ivory Control System.

(B) The country's elephant conservation program is based on the best available information, and the country is making expeditious progress in compiling information on the elephant habitat condition and carrying capacity, total population and population trends, and the annual reproduction and mortality of the elephant populations within the country.

(C) The taking of elephants in the country is effectively controlled and monitored.

(D) The country's ivory quota is determined on the basis of information referred to in subparagraph (B) and reflects the amount of ivory which is confiscated or consumed domestically by the country.

(E) The country has not authorized or allowed the export of amounts of raw ivory which exceed its ivory quota under the CITES Ivory Control System.

(2) DELAY IN ISSUING DETERMINATION.—If the Secretary finds within one year after the date of the enactment of this title that there is insufficient information upon which to make the determination under paragraph (1), the Secretary may delay issuing the determination until no later than December 31, 1989. The Secretary shall issue and publish in the Federal Register at the time of the finding a statement explaining the reasons for any such delay.

Federal Register, publication.

SEC. 2202. MORATORIA.

16 USC 4222.

(a) IVORY PRODUCING COUNTRIES.—

(1) IN GENERAL.—The Secretary shall establish a moratorium on the importation of raw and worked ivory from an ivory producing country immediately upon making a determination that the country does not meet all the criteria set forth in section 2201(b)(1).

102 STAT. 2319

(2) LATER ESTABLISHMENT.—With regard to any ivory producing country for which the Secretary has insufficient information to make a determination pursuant to section 2201(b), the Secretary shall establish a moratorium on the importation of raw and worked ivory from such country not later than January 1, 1990, unless, based on new information, the Secretary concludes before that date that the country meets all of the criteria set forth in section 2201(b)(1).

(b) INTERMEDIARY COUNTRIES.—The Secretary shall establish a moratorium on the importation of raw and worked ivory from an intermediary country immediately upon making a determination that the country—

(1) is not a party to CITES;

(2) does not adhere to the CITES Ivory Control System;

(3) imports raw ivory from a country that is not an ivory producing country;

(4) imports raw or worked ivory from a country that is not a party to CITES;

(5) imports raw or worked ivory that originates in an ivory producing country in violation of the laws of that ivory producing country;

(6) substantially increases its imports of raw or worked ivory from a country that is subject to a moratorium under this title during the first three months of that moratorium; or

(7) imports raw or worked ivory from a country that is subject to a moratorium under this title after the first three months of that moratorium, unless the ivory is imported by vessel during the first six months of that moratorium and is accompanied by shipping documents which show that it was exported before the establishment of the moratorium.

(c) SUSPENSION OF MORATORIUM.—The Secretary shall suspend a moratorium established under this section if, after notice and public comment, the Secretary determines that the reasons for establishing the moratorium no longer exist.

(d) PETITION.—

(1) IN GENERAL.—Any person may at any time submit a petition in writing requesting that the Secretary establish or suspend a moratorium under this section. Such a petition shall include such substantial information as may be necessary to demonstrate the need for the action requested by the petition.

Federal Register, publication.

(2) CONSIDERATION AND RULING.—The Secretary shall publish a notice of receipt of a petition under this subsection in the Federal Register and shall provide an opportunity for the public to comment on the petition. The Secretary shall rule on such petition not later than 90 days after the close of the public comment period.

(e) SPORT-HUNTED TROPHIES.—Individuals may import sport-hunted elephant trophies that they have legally taken in an ivory producing country that has submitted an ivory quota. The Secretary shall not establish any moratorium under this section, pursuant to a petition or otherwise, which prohibits the importation into the United States of sport-hunted trophies from elephants that are legally taken by the importer or the importer's principal in an ivory producing country that has submitted an ivory quota.

(f) CONFISCATED IVORY.—Trade in raw or worked ivory that is confiscated by an ivory producing country or an intermediary country and is disposed of pursuant to the CITES Ivory Control System

102 STAT. 2320

shall not be the sole cause for the establishment of a moratorium under this part if all proceeds from the disposal of the confiscated ivory are used solely to enhance wildlife conservation programs or conservation purposes of CITES. With respect to any country that was not a party to CITES at the time of such confiscation, this subsection shall not apply until such country develops appropriate measures to assure that persons with a history of illegal dealings in ivory shall not benefit from the disposal of confiscated ivory.

16 USC 4223.

SEC. 2203. PROHIBITED ACTS.

Except as provided in section 2202(e), it is unlawful for any person—

(1) to import raw ivory from any country other than an ivory producing country;

(2) to export raw ivory from the United States;

(3) to import raw or worked ivory that was exported from an ivory producing country in violation of that country's laws or of the CITES Ivory Control System;

(4) to import worked ivory, other than personal effects, from any country unless that country has certified that such ivory was derived from legal sources; or

(5) to import raw or worked ivory from a country for which a moratorium is in effect under section 2202.

16 USC 4224.

SEC. 2204. PENALTIES AND ENFORCEMENT.

(a) CRIMINAL VIOLATIONS.—Whoever knowingly violates section 2203 shall, upon conviction, be fined under title 18, United States Code, or imprisoned for not more than one year, or both.

(b) CIVIL VIOLATIONS.—Whoever violates section 2203 may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation.

(c) PROCEDURES FOR ASSESSMENT OF CIVIL PENALTY.—Proceedings for the assessment of a civil penalty under this section shall be conducted in accordance with the procedures provided for in section 11(a) of the Endangered Species Act of 1973 (16 U.S.C. 1540(a)).

(d) USE OF PENALTIES.—Subject to appropriations, penalties collected under this section may be used by the Secretary of the Treasury to pay rewards under section 2205 and, to the extent not used to pay such rewards, shall be deposited by the Secretary of the Treasury into the Fund.

(e) ENFORCEMENT.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this part in the same manner such Secretaries carry out enforcement activities under section 11(e) of the

Endangered Species Act of 1973 (16 U.S.C. 1540(e)). Section 11(c) of the Endangered Species Act of 1973 (16 U.S.C. 1540(c)) shall apply to actions arising under this part.

SEC. 2205. REWARDS. 16 USC 4225.

(a) IN GENERAL.—Upon the recommendation of the Secretary, the Secretary of the Treasury may pay a reward to any person who furnishes information which leads to a civil penalty or a criminal conviction under this title.

(b) AMOUNT.—The amount of a reward under this section shall be equal to not more than one-half of any criminal or civil penalty or fine with respect to which the reward is paid, or $25,000, whichever is less.

102 STAT. 2321

(c) LIMITATION ON ELIGIBILITY.—An officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his or her official duties shall not be eligible for a reward under this section.

PART III—MISCELLANEOUS

SEC. 2301. PERMISSION TO IMPORT OR EXPORT AFRICAN ELEPHANT IVORY.

Section 9(d) of the Endangered Species Act of 1973 (16 U.S.C. 1538(d)) is amended to read as follows:

"(d) IMPORTS AND EXPORTS.— Fish and fishing.

"(1) IN GENERAL.—It is unlawful for any person, without first having obtained permission from the Secretary, to engage in business—

"(A) as an importer or exporter of fish or wildlife (other than shellfish and fishery products which (i) are not listed pursuant to section 4 of this Act as endangered species or threatened species, and (ii) are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes); or

"(B) as an importer or exporter of any amount of raw or worked African elephant ivory.

"(2) REQUIREMENTS.—Any person required to obtain permission under paragraph (1) of this subsection shall— Records.

"(A) keep such records as will fully and correctly disclose each importation or exportation of fish, wildlife, plants, or African elephant ivory made by him and the subsequent disposition made by him with respect to such fish, wildlife, plants, or ivory;

"(B) at all reasonable times upon notice by a duly authorized representative of the Secretary, afford such representative access to his place of business, an opportunity to examine his inventory of imported fish, wildlife, plants, or African elephant ivory and the records required to be kept under subparagraph (A) of this paragraph, and to copy such records; and

"(C) file such reports as the Secretary may require.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this subsection.

"(4) RESTRICTION ON CONSIDERATION OF VALUE OR AMOUNT OF AFRICAN ELEPHANT IVORY IMPORTED OR EXPORTED.—In granting permission under this subsection for importation or exportation of African elephant ivory, the Secretary shall not vary the requirements for obtaining such permission on the basis of the value or amount of ivory imported or exported under such permission.".

SEC. 2302. RELATIONSHIP TO ENDANGERED SPECIES ACT OF 1973. 16 USC 4241.

The authority of the Secretary under this title is in addition to and shall not affect the authority of the Secretary under the Endan-

gered Species Act of 1973 (16 U.S.C. 1531 et seq.) or diminish the Secretary's authority under the Lacey Act Amendments of 1981 (16
102 STAT. 2322 U.S.C. 3371 et seq.).

SEC. 2303. CERTIFICATION UNDER PELLY AMENDMENT.

If the Secretary finds in administering this title that a country does not adhere to the CITES Ivory Control System, that country is deemed, for purposes of section 8(a)(2) of the Act of August 27, 1954 (22 U.S.C. 1978), to be diminishing the effectiveness of an international program for endangered or threatened species.

Imports.
Ivory.
16 USC 4243.

SEC. 2304. EFFECTIVENESS OF CITES.

Within 3 months after the completion of the 8th Conference of the Parties to CITES, the Secretary shall determine whether this title, together with the CITES Ivory Control System, has substantially stopped the importation of illegally harvested ivory into the United States. If the Secretary determines that the importation of illegally harvested ivory has not been substantially stopped, the Secretary shall recommend to the Congress amendments to this title or other actions that may be necessary to achieve the purposes of this title, including the establishment of a complete moratorium on the importation of elephant ivory into the United States.

16 USC 4244.

SEC. 2305. DEFINITIONS.

In this title—

(1) the term "African elephant" means any animal of the species loxodonta africana;

(2) the term "CITES" means the Convention on the International Trade in Endangered Species of Wild Fauna and Flora;

(3) the term "CITES Ivory Control System" means the ivory quota and marking system established by CITES to curtail illegal trade in African elephant ivory;

(4) the term "Fund" means the African Elephant Conservation Fund established by section 2102;

(5) the terms "import" and "importation" have the meanings such terms have in the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(6) the term "intermediary country" means a country that exports raw or worked ivory that does not originate in that country;

(7) the term "ivory producing country" means any African country within which is located any part of the range of a population of African elephants;

(8) the term "ivory quota" means a quota submitted by an ivory producing country to the CITES Secretariat in accordance with the CITES Ivory Control System;

(9) the term "personal effects" means articles which are not intended for sale and are part of a shipment of the household effects of a person who is moving his or her residence to or from the United States, or are included in personal accompanying baggage;

(10) the term "raw ivory" means any African elephant tusk, and any piece thereof, the surface of which, polished or unpolished, is unaltered or minimally carved;

(11) the term "Secretary" means the Secretary of the Interior;

(12) the term "United States" means the fifty States, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the territories and possessions of the United States; and

(13) the term "worked ivory" means any African elephant
102 STAT. 2323 tusk, and any piece thereof, which is not raw ivory.

16 USC 4245.

SEC. 2306. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Fund and to the Secretary a total of not to exceed $5,000,000 for each of fiscal years

1989, 1990, 1991, 1992, and 1993 to carry out this title, to remain available until expended.

Approved October 7, 1988.

LEGISLATIVE HISTORY—H.R. 1467 (S. 675):

HOUSE REPORTS: No. 100-467 (Comm. on Merchant Marine and Fisheries) and No. 100-928 (Comm. of Conference).
SENATE REPORTS: No. 100-240 accompanying S. 675 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 11, 17, considered and passed House.
Vol. 134 (1988): July 25, S. 675 considered in Senate.
July 28, H.R. 1467 considered and passed Senate, amended, in lieu of S. 675.
Sept. 15, Senate agreed to conference report.
Sept. 26, House agreed to conference report.

Public Law 100-483
100th Congress

102 STAT. 2339

An Act

To authorize appropriations for the Mining and Mineral Resources Research Institute Act for fiscal years 1990 through 1993.

Oct. 12, 1988
[H.R. 3977]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Mining and Mineral Resources Research Institute Amendments of 1988.

SECTION 1. REFERENCES.

Any reference in this Act to the "Mining and Mineral Resources Research Institute Act of 1984" is a reference to the Act of August 29, 1984, entitled "To establish a State Mining and Mineral Resources Research Institute program, and for other purposes" (30 U.S.C. 1221 through 1230).

SEC. 2. ALLOTMENT GRANTS AUTHORIZATION PERIOD; LIMITATION.

Section 1(a)(1) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1221(a)(1)) is amended by striking "$300,000 for the fiscal year ending September 30, 1985, and $400,000 to each participating State for each fiscal year thereafter for a total of five years" and inserting in lieu thereof the following: "$400,000 for each of the fiscal years ending September 30, 1990, through September 30, 1994".

SEC. 3. MATCHING FUNDS REQUIREMENT.

Grants.

Section 1(a)(2)(A) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1221(a)(2)(A)) is amended to read as follows:

"(A) Funds appropriated under this section shall be made available for grants to be matched on a basis of no less than 2 non-Federal dollars for each Federal dollar.".

SEC. 4. RESEARCH SUBJECT.

The second sentence of section 1(b) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1221(b)) is amended by inserting "fuel and nonfuel" immediately after "production of".

SEC. 5. RESEARCH GRANTS AUTHORIZATION PERIOD.

Section 2(a) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1222(a)) is amended as follows:

(1) The first sentence is amended to read as follows: "There is authorized to be appropriated to the Secretary not more than

$15,000,000 for each of the fiscal years ending September 30, 1990, through September 30, 1994, which shall remain available until expended.".

(2) The second sentence is deleted.

(3) In the third sentence, strike "institutes" and insert "an institute or to institutes participating in a generic mineral technology center".

102 STAT. 2340

SEC. 6. ADMINISTRATION.

The first sentence of section 4(a) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1224(a)) is amended by inserting ", acting through the Director of the Bureau of Mines," immediately after "The Secretary".

SEC. 7. ADMINISTRATIVE EXPENSES.

Section 6(d) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1226(d)) is amended to read as follows:

"(d)(1) There is authorized to be appropriated to the Secretary $450,000 for each of the fiscal years ending September 30, 1990, through September 30, 1994, to administer this Act. No funds may be withheld by the Secretary for administrative expenses from those authorized to be appropriated by sections 1 and 2 of this Act.

"(2) There are authorized to be appropriated to the Secretary such sums as are necessary for the printing and publishing of the results of activities carried out by institutes and generic mineral technology centers under this Act, but such appropriations shall not exceed $550,000 in any single fiscal year.".

SEC. 8. ADVISORY COMMITTEE.

Section 9(a)(7) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1229(a)(7)) is amended by striking "six" in the first and last sentences and inserting in lieu thereof "7", and by striking "section 301 of the Surface Mining Control and Reclamation Act of 1977, two" and inserting in lieu thereof "this Act, 3".

SEC. 9. PLAN UPDATE.

Section 9(e) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1229(e)) is amended by striking "update the plan annually thereafter" in the second sentence and inserting in lieu thereof "submit an annual update of such plan by January 15 of each calendar year".

SEC. 10. ELIGIBILITY.

Section 10(b) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1230(b)) is amended to read as follows:

Schools and colleges.

"(b)(1) Notwithstanding the provisions of subsection (a), those colleges or universities which, on the date of enactment of the Mining and Mineral Resources Research Institute Amendments of 1988, have a mining or mineral resources research institute program which has been found to be eligible pursuant to this Act shall continue to be eligible subject to review at least once during the period authorized by the Mining and Mineral Resources Research Institute Amendments of 1988, under the provisions of subsection (a). The results of such review shall be submitted by January 15, 1992, pursuant to section 11(a)(2) of the Mining and Mineral Resources Research Institute Amendments of 1988.

"(2) Generic mineral technology centers established by the Secretary under this Act are to be composed of institutes eligible pursuant to subsection (a). Existing generic mineral technology centers shall continue to be eligible under this Act subject to at least one review prior to January 15, 1992, pursuant to section 11(a)(3) of the Mining and Mineral Resources Research Institute Amendments of 1988.".

SEC. 11. REPORTS.

30 USC 1229 note.
102 STAT. 2341

(a) REPORT ON PROGRAMS.—The Committee on Mining and Mineral Resources Research established under section 9 of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1229) shall submit a report by January 15, 1992, to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate on the programs established under that Act. Such report may be submitted in conjunction with the annual plan update required by section 9(e) of such Act (30 U.S.C. 1229(e)) and shall include, but not necessarily be limited to, each of the following:

(1) A review of the activities of the institutes and generic mineral technology centers established under the Mining and Mineral Resources Research Institute Act of 1984.

(2) A review of each institute's eligibility pursuant to section 10 of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1230).

(3) A review of each generic mineral technology center's eligibility. In conducting such review the committee shall consider the following criteria:

(A) Relevance and effectiveness of the research conducted.

(B) Need for further research in the generic area.

(4) Recommendations on establishing a mechanism by which new generic mineral technology centers can be established and existing centers can be phased-out or consolidated upon the completion of their mission.

(b) REPORT ON PROPOSAL FOR CENTER.—The committee shall submit a proposal to establish a Generic Mineral Technology Center on Strategic and Critical Minerals to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate by January 15, 1990.

SEC. 12. SHORT TITLE OF ACT.

The Mining and Mineral Resources Research Institute Act of 1984 is amended by inserting the following new section after section 10:

"SEC. 11. SHORT TITLE OF ACT.

Mining and Mineral Resources Research Institute Act of 1984. 30 USC 1201 note.

"This Act may be cited as the Mining and Mineral Resources Research Institute Act of 1984.".

SEC. 13. SHORT TITLE OF AMENDMENTS.

30 USC 1201 note.

This Act may be cited as the Mining and Mineral Resources Research Institute Amendments of 1988.

Approved October 12, 1988.

LEGISLATIVE HISTORY—H.R. 3977:

HOUSE REPORTS: No. 100-581 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-473 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 23, considered and passed House.
Aug. 11, considered and passed Senate, amended.
Sept. 23, House concurred in Senate amendment with an amendment.
Sept. 28, Senate concurred in House amendment.

102 STAT. 2435 Public Law 100-490
100th Congress

An Act

Oct. 14, 1988
[H.R. 4267]

To authorize additional appropriations for the WEB Rural Water Development Project, South Dakota, authorize the use of Pick-Sloan Missouri Basin electric power by the Lower Brule Sioux Indian Tribe, and to rename certain facilities of the Central Valley Project, California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—WEB PIPELINE PROJECT, SOUTH DAKOTA

SEC. 101. INCREASE IN AUTHORIZATION OF APPROPRIATIONS.

In addition to the funds authorized to be appropriated for the construction of the WEB Rural Water Development project, authorized by section 9 of the Rural Development Policy Act of 1980 (Public Law 96-355, 94 Stat. 1175), as amended by section 2 of Public Law 97-273 (96 Stat. 1181), there are authorized to be appropriated therefor an additional sum of $18,500,000 (March 1988 price levels), plus or minus such amounts, if any, as may be required by engineering cost indices applicable to such construction.

SEC. 102. USE OF PICK-SLOAN POWER.

Section 5 of Public Law 97-273 (96 Stat. 1182) is amended by inserting: (1) after "Omaha" the phrase "Lower Brule, including the Clark Ranch irrigation development," and (2) a period after the phrase "irrigation developments" and deleting the remainder of the sentence.

TITLE II—NAME CHANGE

SEC. 201. B.F. SISK SAN LUIS DAM.

(a) The San Luis Dam of the San Luis Unit, Central Valley project, California, constructed, operated, and maintained under the Act of June 3, 1960 (Public Law 86-488, 74 Stat. 156), hereafter shall be known and designated as the "B.F. Sisk San Luis Dam".

(b) Any reference in any law, regulation, document, record, map, or other paper of the United States to the dam referred to in subsection (a) is hereby deemed to be a reference to the "B.F. Sisk San Luis Dam".

SEC. 202. WILLIAM R. GIANELLI PUMPING-GENERATING PLANT.

(a) The San Luis Pumping-Generating Plant of the San Luis Unit, Central Valley project, California, constructed, operated, and maintained under the Act of June 3, 1960 (Public Law 86-488, 74 Stat. 156), hereafter shall be known and designated as the "William R. Gianelli Pumping-Generating Plant".

(b) Any reference in any law, regulation, document, record, map, or other paper of the United States to the plant referred to in subsection (a) is hereby deemed to be a reference to the "William R. Gianelli Pumping-Generating Plant".

102 STAT. 2436

SEC. 203. CLAIR A. HILL WHISKEYTOWN DAM.

(a) The Whiskeytown Dam of the Central Valley project, California, constructed, operated, and maintained under the Act of August 26, 1937 (50 Stat. 850), and Acts supplementary and amendatory thereto, hereafter shall be known and designated as the "Clair A. Hill Whiskeytown Dam".

(b) Any reference in any law, regulation, document, record, map, or other paper of the United States to the plant referred to in

subsection (a) is hereby deemed to be a reference to the "Clair A. Hill Whiskeytown Dam".

Approved October 14, 1988.

LEGISLATIVE HISTORY—H.R. 4267:

HOUSE REPORTS: No. 100-582, Pt. 1 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-474 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 10, considered and passed House.
Aug. 11, considered and passed Senate, amended.
Oct. 3, 4, House concurred in Senate amendment.

Public Law 100-516
100th Congress

102 STAT. 2566

An Act

To authorize construction of the Mni Wiconi Rural Water Supply Project, and for other purposes.

Oct. 24, 1988
[H.R. 2772]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Mni Wiconi Project Act of 1988.
Fish and fishing.
Wildlife.
South Dakota.
Indians.
Conservation.

Sections 1 through 12 of this Act may be cited as the "Mni Wiconi Project Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are insufficient water supplies available to residents of the Pine Ridge Indian Reservation in South Dakota, and the water supplies that are available do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) Shannon County, South Dakota, one of the counties where the Pine Ridge Indian Reservation is located, is the poorest county in the United States, and the lack of water supplies on the Pine Ridge Indian Reservation restricts efforts to promote economic development on the reservation;

(3) serious problems in water quantity and water quality exist in the rural counties of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota;

(4) the United States has a trust responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Pine Ridge Indian Reservation; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Pine Ridge Indian Reservation, and the residents of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties is the Missouri River.

(b) PURPOSE.—The Congress declares that the purposes of sections 1 through 12 are to—

(1) ensure a safe and adequate municipal, rural, and industrial water supply for the residents of the Pine Ridge Indian Reservation in South Dakota;

(2) assist the citizens of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota, to develop safe and adequate municipal, rural, and industrial water supplies;

(3) promote the implementation of water conservation programs on the Pine Ridge Indian Reservation and in Haakon,

Jackson, Jones, Lyman, Mellette, Pennington, and Stanley
102 STAT. 2567 Counties, South Dakota;

(4) provide certain benefits to fish, wildlife, and the natural environment of South Dakota, including the Pine Ridge Indian Reservation; and

(5) repeal the authorization of appropriations for the Pollock-Herreid Unit of the Pick-Sloan Missouri Basin Program.

SEC. 3. OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.

(a) AUTHORIZATION.—The Secretary of the Interior (hereafter in sections 1 through 12 referred to as the "Secretary") is authorized and directed to plan, design, construct, operate, maintain, and replace a municipal, rural, and industrial water system, to be known as the Oglala Sioux Rural Water Supply System, as generally described in the report entitled "1988 Planning Report and Environmental Assessment" and dated February 1988. The Oglala Sioux Rural Water Supply System shall consist of—

(1) pumping and treatment facilities located along the Missouri River near Fort Pierre, South Dakota;

(2) pipelines extending from the Missouri River near Fort Pierre, South Dakota, to the Pine Ridge Indian Reservation;

(3) facilities to allow for interconnections with the West River Rural Water System and Lyman-Jones Rural Water System;

(4) distribution and treatment facilities to serve the needs of the Pine Ridge Indian Reservation, including but not limited to the purchase, improvement and repair of existing water systems, including systems owned by individual tribal members and other residents on the Pine Ridge Indian Reservation;

Highways.
Real property.
Utilities.
Energy.

(5) appurtenant buildings and access roads;

(6) necessary property and property rights;

(7) electrical power transmission and distribution facilities necessary for services to water systems facilities; and

(8) such other pipelines, pumping plants, and facilities as the Secretary deems necessary or appropriate to meet the water supply, economic, public health, and environmental needs of the reservation, including (but not limited to) water storage tanks, water lines, and other facilities for the Oglala Sioux Tribe and reservation villages, towns, and municipalities.

(b) AGREEMENT WITH NON-FEDERAL ENTITY TO PLAN, CONSTRUCT, OPERATE AND MAINTAIN THE OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.—

(1) In carrying out subsection (a), the Secretary, with the concurrence of the Oglala Sioux Tribal Council, shall enter into agreements with the appropriate non-Federal entity or entities for planning, designing, constructing, operating, maintaining, and replacing the Oglala Sioux Rural Water Supply System.

(2) Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

(A) the responsibilities of the parties for needs assessment, feasibility, and environmental studies; engineering and design; construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

(B) the procedures and requirements for approval and acceptance of such design and construction; and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(3) Such cooperative agreements may include purchase,
102 STAT. 2568 improvement, and repair of existing water systems, including systems owned by individual tribal members and other residents located on the Pine Ridge Indian Reservation.

(4) The Secretary may unilaterally terminate any cooperative agreement entered into pursuant to this section if the Secretary determines that the quality of construction does not meet all standards established for similar facilities constructed by the Secretary or that the operation and maintenance of the system

does not meet conditions acceptable to the Secretary for fulfilling the obligations of the United States to the Oglala Sioux Tribe.

(5) Upon execution of any cooperative agreement authorized under this section, the Secretary is authorized to transfer to the appropriate non-Federal entity, on a nonreimbursable basis, the funds authorized to be appropriated by section 10 for the Oglala Sioux Rural Water Supply System.

(c) SERVICE AREA.—The service area of the Oglala Sioux Rural Water Supply System shall be the boundaries of the Pine Ridge Indian Reservation.

(d) CONSTRUCTION REQUIREMENTS.—The pumping plants, pipelines, treatment facilities, and other appurtenant facilities for the Oglala Sioux Rural Water Supply System shall be planned and constructed to a size sufficient to meet the municipal, rural, and industrial water supply requirements of the Pine Ridge Indian Reservation, the West River Rural Water System, and the Lyman-Jones Rural Water System, taking into account the effects of the conservation plans described in section 5. All three systems may be interconnected and provided with water service from common facilities. Any joint costs associated with common facilities shall be allocated to the Oglala Sioux Rural Water Supply System.

(e) TITLE TO SYSTEM.—Title to the Oglala Sioux Rural Water Supply System shall be held in trust for the Oglala Sioux Tribe by the United States and shall not be transferred without a subsequent Act of Congress.

(f) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the Oglala Sioux Rural Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met; and

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than ninety days. Reports.

(g) TECHNICAL ASSISTANCE.—The Secretary is authorized and directed to provide such technical assistance as may be necessary to the Oglala Sioux Tribe to plan, develop, construct, operate, maintain, and replace the Oglala Sioux Rural Water Supply System, including (but not limited to) operation and management training.

(h) APPLICATION OF INDIAN SELF-DETERMINATION ACT.—Planning, design, construction and operation of the Oglala Sioux Rural Water Supply System within the Pine Ridge Reservation shall be subject to the provisions of the Indian Self-Determination Act (Public Law 93-638; 25 U.S.C. 450).

SEC. 4. WEST RIVER RURAL WATER SYSTEM AND LYMAN-JONES RURAL WATER SYSTEM.

(a) PLANNING AND CONSTRUCTION.—

(1) The Secretary is authorized and directed to enter into cooperative agreements with appropriate non-Federal entities to provide Federal funds for the planning and construction of the West River Rural Water System and the Lyman-Jones Rural Water System in Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota, as described in the report entitled "1988 Planning Report and Environmental Assessment" and dated February 1988. Contracts. 102 STAT. 2569

(2) The Secretary may not provide more than 65 per centum of the total cost of—

(A) the West River Rural Water System, and

(B) the Lyman-Jones Rural Water System. Such Federal funds may be obligated and expended only through cooperative agreements described in subsection (b).

(3) The non-Federal share of the costs allocated to the West River and Lyman-Jones Rural Water Systems shall be 35 per centum.

(b) COOPERATIVE AGREEMENTS.—

(1) The Secretary, with the concurrence of the Lyman-Jones and West River Rural Water Systems, shall execute cooperative

agreements with the appropriate non-Federal entities to provide Federal assistance for the planning, design, and construction of the West River Rural Water System and the Lyman-Jones Rural Water System. Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

(A) the reponsibilities of the parties for needs assessment, feasibility and environmental studies; engineering and design; construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

(B) the procedures and requirements for approval and acceptance of such design and construction; and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(c) FACILITIES ON WHICH FEDERAL FUNDS MAY BE EXPENDED.—The facilities on which Federal funds may be obligated and expended under this section shall include—

(1) water intake, pumping, treatment, storage, interconnection, and pipeline facilities;

Highways.
Real property.
Utilities.
Energy.

(2) appurtenant buildings and access roads;

(3) necessary property and property rights;

(4) electrical power transmission and distribution facilities necessary for service to water system facilities;

(5) planning and design services for all facilities; and

(6) other facilities and services customary to the development of rural water distribution systems in South Dakota.

(d) SERVICE AREA.—The service area of the West River Rural Water System and the Lyman-Jones Rural Water System shall be as described in the engineering study entitled "1988 Planning Report and Environmental Assessment" and dated February 1988.

(e) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the West River Rural Water System and the Lyman-Jones Rural Water System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met; and

Reports.

(2) final engineering reports have been prepared and submitted to the Congress for a period of not less than ninety days.

(f) PROHIBITIONS ON USE OF FEDERAL FUNDS.—The Secretary may

102 STAT. 2570

not obligate or expend any Federal funds for the operation, maintenance, or replacement of either the West River or Lyman-Jones Rural Water System.

SEC. 5. WATER CONSERVATION.

Public information.

In order to reduce costs to consumers and to reduce water consumption, the Secretary, prior to obligating any construction funds, shall issue a public notice finding that plans for the rural water systems include prudent and responsible water conservation measures for the operation of such systems where such measures are shown to be economically and financially feasible. The non-Federal parties (including the Oglala Sioux Tribe) participating in the systems shall develop a water conservation plan containing definite goals, appropriate water conservation measures, and a time schedule for meeting the water conservation objectives. The provisions of section 210(c) of Public Law 97-293 (96 Stat. 1268) shall apply with respect to the systems.

SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.

(a) OGLALA SIOUX RURAL WATER SUPPLY SYSTEM AND THE WEST RIVER AND LYMAN-JONES RURAL WATER SYSTEMS.—Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction.

(b) OAHE AND BIG BEND DAMS AND RESERVOIRS.—The Secretary, in cooperation with the State of South Dakota and other Federal

agencies, shall develop and submit recommendations to the Congress for financing and implementing mitigation plans for fish and wildlife losses incurred as a result of the construction and operation of the Oahe Dam Reservoir and Big Bend Dam and Reservoir. Such plans shall incorporate the proposal of the United States Army Chief of Engineers as outlined in Design Memorandum M (Gen)–19 of December 1987 for improved management of existing Federal lands, and purchase of single-purpose mitigation lands, such as the Olson and Mudon Ranches, from willing sellers.

SEC. 7. PROHIBITION ON USE OF FUNDS FOR IRRIGATION PURPOSES.

None of the funds made available to the Secretary for planning or construction of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, or the Lyman-Jones Rural Water System may be used to plan or construct facilities used to supply water for the purpose of irrigation.

SEC. 8. RULE OF CONSTRUCTION.

Nothing in sections 1 through 12 is intended, nor shall be construed, to preclude the State of South Dakota or the Oglala Sioux Tribe from seeking congressional authorization to plan, design, operate, or construct additional federally assisted water resource development projects.

SEC. 9. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—The Systems authorized by sections 3 and 4 of this Act shall utilize power from Pick-Sloan for their operation. This power shall be deemed to be a project use pumping requirement of Pick-Sloan.

(b) POWER TO BE USED.—As of the date of enactment of this Act, power identified for future project use pumping at the Pollock-Herreid Unit of the Pick-Sloan shall be reserved for and utilized by the Systems and made available for the purpose authorized by subsection (a). 102 STAT. 2571

(c) RATE.—The rate for project use power made available pursuant to subsection (a) shall be the wholesale firm power rate for Pick-Sloan (Eastern Division) in effect at the time the power is sold.

(d) ADDITIONAL POWER.—If additional power beyond that made available through subsection (b) is required to meet the pumping requirements of the Systems, the Administrator of the Western Area Power Administration is authorized to purchase the additional power needed under such terms and conditions the Administrator deems appropriate. Expenses associated with such power purchases shall be recovered through a separate power charge, sufficient to recover these expenses, applied to the Systems.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "Systems" means the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System; and

(2) the term "Pick-Sloan" means the Pick-Sloan Missouri Basin Program authorized by section 9 of the Act of December 22, 1944 (58 Stat. 891; commonly referred to as the Flood Control Act of 1944).

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) PLANNING, DESIGN, AND CONSTRUCTION.—There are authorized to be appropriated $87,500,000 for the planning, design, and construction of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System under the provisions of sections 3 and 4. Such funds are authorized to be appropriated only through the end of the ninth fiscal year after which construction funds are first made available. The funds authorized to be appropriated by the first sentence of this section, less any amounts previously obligated for the Systems, may be increased or decreased by such amounts as may be justified by reason of ordinary fluctuations in development costs incurred after January 1, 1987, as indicated by engineering costs indices applicable for the type of construction involved.

(b) OPERATION AND MAINTENANCE OF OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.—There are authorized to be appropriated such sums as may be necessary for the operation and maintenance of the Oglala Sioux Rural Water Supply System.

State and local governments.

SEC. 11. WATER RIGHTS.

Nothing in sections 1 through 12 shall be construed to—

(1) impair the validity of or preempt any provision of State water law, or of any interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body or surface or ground water, whether determined by past or future interstate compacts, or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal;

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources; or

Claims.

102 STAT. 2572

(5) affect any water rights or claims thereto of the Oglala Sioux Tribe, whether located within or without the external boundaries of the Pine Ridge Indian Reservation, based on treaty, Executive order, agreement, Act of Congress, aboriginal title, the Winter's doctrine (Winter's v. United States, 207 U.S. 564 (1908)), or otherwise. Nothing contained in this section or in section 1 through 12, however, is intended to validate or invalidate any assertion of the existence, nonexistence or extinguishment of any water rights, or claims thereto, held by the Oglala Sioux Tribe, or any other Indian tribe or individual Indian under Federal or State law.

SEC. 12. REPEAL OF AUTHORIZATION OF APPROPRIATIONS.

(a) POLLOCK-HERREID UNIT.—Section 407 of the Reclamation Authorization Act of 1975 (Public Law 94-228; 90 Stat. 209) relating to the authorization of appropriations for the Pollock-Herreid Unit of the Pick-Sloan Missouri Basin Program is hereby repealed. The Pollock-Herreid Unit shall remain an authorized feature of the Pick-Sloan Missouri Basin Program.

(b) FEASIBILITY STUDIES.—Delete section 3 of Public Law 97-273 (96 Stat. 1181) and substitute in lieu thereof the following:

Reports.

"SEC. 3. The Secretary is authorized, in cooperation with the State of South Dakota, to conduct a feasibility investigation of the alternate uses of facilities constructed for use in conjunction with the Oahe Unit, initial stage, James Division, Pick-Sloan Missouri Basin Program, South Dakota, and to report to the Congress the findings of such study along with his recommendations.".

SEC. 13. GRAND VALLEY PROJECT, COLORADO.

The Secretary of the Interior is authorized to extend the Grand Valley Project Contract Numbered 6-07-40-P0080, dated April 10, 1986, among the United States, the Grand Valley Water Users Association, Public Service Company of Colorado, and the Orchard Mesa Irrigation District, for a period not to exceed two years to provide for the continued operation of the Grand Valley Power Project.

Public lands.

SEC. 14. VETERAN, WYOMING TOWNSITE.

(a) Notwithstanding any law or court order to the contrary, the Secretary of the Interior shall amend, subject to valid existing rights, the official subdivision survey and plat for the town site of Veteran, Wyoming, to take into account the actual and common use of streets and alleys on such lands for designation as public reservations in accordance with the Act of April 16, 1906 (34 Stat. 116, as amended).

Patents and trademarks.

(b) After completion of the work required to amend the town site survey and plat, the title of the United States in and to the public reservation lands shall be patented to Goshen County, Wyoming.

Title of the United States in and to a 90 feet by 75 feet lot of approximately 0.15 acres which is described in the records of the Goshen County, Wyoming, clerk's office as "a tract in southwest corner of town of Veteran, Block 40 in the original town of Veteran," shall be patented to Goshen County Unified School District Number One.

(c) The Secretary is authorized to dispose of Federal lands within the town site area by negotiated sale at fair market value or by public sale.

SEC. 15. CONTRACTS WITH THE REDWOOD VALLEY COUNTY WATER DISTRICT, CALIFORNIA. Loans.

(a) RENEGOTIATION OF CONTRACTS.—(1) Notwithstanding any other provision of law, the Secretary of the Interior shall renegotiate the schedules of payment for the loans to the Redwood Valley County Water District which are numbered 14-06-200-8423A and 14-06-200-8423A Amendatory.

(2) Such renegotiated schedules of payment may not take effect until October 1, 1989.

(b) The obligation to repay amounts loaned to the Redwood Valley County Water District, California, pursuant to the original negotiated schedule of payment of a loan specified in subsection (a) is suspended until the renegotiated schedule of payment for that loan takes effect. Any obligation to repay amounts under any such loan which is due, but not paid as of the date of enactment of this Act, is suspended. The renegotiated schedules of payment referred to in subsection (a) shall take into account any obligation suspended by this subsection.

(c) No interest may be charged on any payment under either of the loans specified in subsection (a) which is due but not paid before the renegotiated schedule of payment for such loan takes effect.

SEC. 16. WATER PURCHASE BY LAKEVIEW IRRIGATION DISTRICT, WYOMING.

(a) OPTION TO PURCHASE WATER.—The Secretary of the Interior is hereby authorized and directed to offer annually to the Lakeview Irrigation District, Wyoming, an option to purchase up to 15,000 acre-feet of storage in the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming, of which 3,200 acre-feet shall be a firm water supply and the remainder shall be available as needed pending completion of the Polecat Bench Reclamation Project.

(b) EXERCISE OF OPTION.—The Lakeview Irrigation District may exercise its purchase option only in those water years when there is insufficent yield for the District only after the primary flow rights of the Shoshone Project have been satisfied. Any water purchased by the district pursuant to this section shall be provided through exchange by the Bureau of Reclamation in return for the district's right to continue upstream withdrawals of Shoshone Project water.

(c) WAIVER OF CERTAIN REQUIREMENTS.—The Secretary of the Interior is authorized and directed to waive land classification and related study requirements in connection with any contract entered into pursuant to this section. Contracts.

(d) STATE LAW.—Any allocation or reallocation from existing uses of water stored in the Buffalo Bill Dam and Reservoir resulting from this section shall be pursuant to the laws of the State of Wyoming.

SEC. 17. NAVY LAND, CALIFORNIA.

Section 2 of the Act entitled "An Act to provide for deferment of construction charges payable by Westlands Water District attributable to lands of the Naval Air Station: Lemoore, California, included in said district, and for other purposes", approved August 10, 1972 (86 Stat. 380), is amended by inserting: "Proceeds from the leases in excess of these needs and from lease parcels not within Westlands Water District may be utilized by the Secretary of the Navy to acquire easements in Kings County, California." after "are fully paid.". Contracts.

102 STAT. 2574

SEC. 18. ENERGY PURCHASE FROM SHOSHONE IRRIGATION DISTRICT, WYOMING.

(a) EXTENSION.—The Secretary of Energy, acting through the Western Area Power Administration, is directed to offer an extension of the energy purchase provisions of article 9 of the contract numbered 2-07-70-PO287 and dated March 15, 1982, to the Shoshone Irrigation District, an irrigation district and municipal corporation organized under the laws of the State of Wyoming. Such extension, if accepted, shall take effect as of April 15, 1988, shall remain in force and effect for a period of five years thereafter, and shall be subject to all of the original conditions, terms, and rates specified in such contract. At the end of the five-year extension, purchases of electric energy under article 9 of such contract may be extended by mutual agreement between the Western Area Power Administration and the Shoshone Irrigation District for successive one-year intervals at rates for purchase which may not be less than the rates specified in article 9.

(b) LIMITATION.—In no event shall sales of electric energy to the United States pursuant to subsection (a) be made after September 30, 1999.

SEC. 19. COLORADO COASTAL PLAINS PROJECT, TEXAS, SHAWS BEND DAMSITE.

(a) FINDINGS.—The Congress finds that—

(1) there have been five studies of the Shaws Bend site of the Colorado Coastal Plains project, authorized as part of the study for the Texas Basins project under the Act entitled "An Act to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource development proposals", approved September 7, 1966 (80 Stat. 707), and

(2) there is no need for the construction of a dam at the Shaws Bend site.

(b) PROHIBITION ON APPROPRIATIONS.—Notwithstanding the first section of such Act and effective after the date of enactment of this Act, no funds may be appropriated for the analysis and study of the Shaws Bend site of the Colorado Coastal Plains project, authorized as part of the study for the Texas Basin project.

SEC. 20. FRANKLIN COUNTY, WASHINGTON ROADS STUDY.

(a) For the purposes of taking actions necessary to protect the county road system in irrigated portions of Franklin County, Washington, within the Federal Columbia Basin reclamation project and which are underlain or adjacent to lands underlain by the unique geological setting identified as the Ringold Formation, the Secretary of the Interior is directed to investigate road instability problems caused by high water tables and landslides, to design corrective actions, and to make recommendations for action.

Appropriation authorization. Reports.

(b) Funds not to exceed $500,000 are authorized to be appropriated for the investigations directed in subsection (a) of this section, which shall be nonreimbursable, and the Secretary shall submit a report of his findings and recommendations for corrective action to the President and the Congress within three years after the date of enactment of this Act and availability of funds.

SEC. 21. DISTRIBUTION SYSTEM CONTRACTS.

102 STAT. 2575

To expedite completion of construction of the irrigation distribution systems of the Maricopa-Stanfield and Central Arizona Irrigation and Drainage Districts, Central Arizona Project, pursuant to Contract Numbered 4-07-30-W0047, as supplemented, and Contract Numbered 4-07-30-W0048, as supplemented, the sixty-day congressional review period provided for in the Act of June 13, 1956 (70 Stat. 274) is hereby waived.

Colorado.

SEC. 22. CLOSED BASIN PROJECT AMENDMENTS.

The Reclamation Project Authorization Act of 1972 (Public Law 92-514, 86 Stat. 964), as amended by the Act of October 3, 1980

(Public Law 96-375, 94 Stat. 1505), and by the Act of October 30, 1984 (Public Law 98-570, 98 Stat. 2941), is further amended as follows:

(1) Section 101(a) is amended by striking the phrase "including channel rectification of the Rio Grande between the uppermost point of discharge into the river of water salvaged by the project, and the Colorado-New Mexico State line, so as to provide for the carriage of water so salvaged without flooding of surrounding lands, to minimize losses of waters through evaporation, transpiration, and seepage, and to provide a conduit for the reception of water salvaged by drainage projects undertaken in the San Luis Valley below Alamosa, Colorado,". New Mexico.

(2) Section 101(c) is amended by striking the phrase "Water Quality Act of 1965 (79 Stat. 903)" and inserting in lieu thereof the phrase "Clean Water Act (Public Law 92-500), as amended.".

(3) Section 102(a) is amended by striking the phrase "except channel rectification,".

(4) Section 102 is amended by adding a new subsection (c) at the end thereof to read as follows:

"(c) The Secretary is authorized to acquire water pursuant to the procedural and substantive laws of the State of Colorado from within the Rio Grande Basin in the State of Colorado by purchase, lease, or exchange from willing sellers for the purposes of this Act, provided that— Contracts.

"(1) such water is obtained, made available, and delivered for project purposes at less cost for operation and maintenance than the same amounts of water can be made available by operation of project pumping facilities and without necessitating the construction of additional physical facilities by the Secretary;

"(2) such water may be used in lieu of water pumped from the project only if the Secretary has complied with all Federal, State, and local laws, rules, and regulations which apply to such water or the facilities other than those of the project which develop such water;

"(3) such water is subject to all of the limitations, conditions, and requirements of this Act to the same extent and in the same manner as water pumped by the project; and

"(4) this authorization shall not entitle the Secretary to obtain such water or any water rights by condemnation or by exercising the power of eminent domain.".

(5) Section 104(b)(2) is amended by adding a new sentence at the end thereof to read as follows: "The Secretary is authorized to negotiate and enter into an agreement with the Rio Grande Water Conservation District which provides for the temporary delivery of project salvaged water to the refuge and the habitat area in those years in which there is not sufficient water to fully satisfy the purposes of both paragraphs (1) and (2) of this subsection.". Contracts.

102 STAT. 2576

(6) Section 104(b)(4) is amended to read as follows:

"(4) For irrigation or other beneficial uses in Colorado: *Provided*, That no water shall be delivered until contracts between the United States and water users in Colorado, or the Rio Grande Water Conservation District acting for them, have been executed providing for the repayment of such construction costs as in the opinion of the Secretary are appropriate and within the ability of the users to pay and for the payment of all of the costs of operation and maintenance which are allocable to the production of this priority 4 water.". Contracts.

(7) Section 109 is amended to read as follows:

"SEC. 109. There is hereby authorized to be appropriated the sum of $94,000,000 (October 1988 prices) for the construction of the Closed Basin Division of the San Luis Valley project, of which amount not more than $31,000,000 may be adjusted plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein, and such additional sums for the operation and maintenance of the project as may be required: *Provided*, That none of the funds Appropriation authorization.

authorized herein for construction in excess of $75,000,000 may be expended by the Secretary unless and until the State of Colorado or a political subdivision thereof has entered into a binding agreement with the Secretary to contribute during construction one-third of the costs of construction in excess of $75,000,000, or $6,000,000, whichever is less. Such agreement shall include a reasonable limitation on administrative overhead expenses charged by the Secretary.".

SEC. 23. BESSEMER DITCH, COLORADO.

The Act of July 9, 1980 (Public Law 96-309, 94 Stat. 940), is amended by adding a section 4 as follows:

"SEC. 4. The Secretary is hereby authorized to undertake the design and construction of approximately 11,000 feet of gunite lining of the Bessemer Ditch in addition to that lining which was constructed pursuant to section 1 of this Act. There is hereby authorized to be appropriated as the Federal share of costs for the purpose of this section the sum of $1,170,000 (based on August 1988 prices), plus or minus such amounts, if any, as may be justified by reason of changes in construction cost indices applicable to the type of construction involved: *Provided*, That non-Federal interests shall contribute during construction of the additional gunite lining an amount equal to 22 per centum of the total cost of the design and construction of such additional lining. The non-Federal contribution may include cash and in kind contributions and shall not be subject to the conditions of section 2 of this Act. The Secretary is authorized to contract with the Bessemer Irrigation Ditch Company for the construction at cost of the additional gunite lining authorized by this section.".

Appropriation authorization.

102 STAT. 2577

Contracts.

Approved October 24, 1988.

LEGISLATIVE HISTORY—H.R. 2772:

HOUSE REPORTS: No. 100-733 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-490 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 27, 28, considered and passed House.
Sept. 8, considered and passed Senate, amended.
Oct. 3, 4, House disagreed to certain Senate amendments and concurred in another with an amendment.
Oct. 7, Senate concurred in House amendment.

102 STAT. 2755

Public Law 100-551
100th Congress

An Act

Oct. 28, 1988
[S. 744]

To amend the Toxic Substances Control Act to assist States in responding to the threat to human health posed by exposure to radon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INDOOR RADON ABATEMENT.

(a) AMENDMENT OF TOXIC SUBSTANCES CONTROL ACT.—The Toxic Substances Control Act (15 U.S.C. 2601 and following) is amended by adding after title II the following new title:

"TITLE III—INDOOR RADON ABATEMENT

15 USC 2661.

"SEC. 301. NATIONAL GOAL.

"The national long-term goal of the United States with respect to radon levels in buildings is that the air within buildings in the United States should be as free of radon as the ambient air outside of buildings.

"SEC. 302. DEFINITIONS. 15 USC 2662.

"For purposes of this title:

"(1) The term 'local educational agency' means—

"(A) any local educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381);

"(B) the owner of any nonprofit elementary or secondary school building; and

"(C) the governing authority of any school operated pursuant to section 6 of the Act of September 30, 1950 (64 Stat. 1107), relating to impact aid for children who reside on Federal property.

"(2) The term 'nonprofit elementary or secondary school' has the meaning given such term by section 202(8).

"(3) The term 'radon' means the radioactive gaseous element and its short-lived decay products produced by the disintegration of the element radium occurring in air, water, soil, or other media.

"(4) The term 'school building' has the meaning given such term by section 202(13).

"SEC. 303. EPA CITIZEN'S GUIDE. 15 USC 2663.

"(a) PUBLICATION.—In order to make continuous progress toward the long-term goal established in section 301 of this title, the Administrator of the Environmental Protection Agency shall, not later than June 1, 1989, publish and make available to the public an updated version of its document titled 'A Citizen's Guide to Radon'. The Administrator shall revise and republish the guide as necessary thereafter.

"(b) INFORMATION INCLUDED.— 102 STAT. 2756

"(1) ACTION LEVELS.—The updated citizen's guide published as provided in subsection (a) shall include a description of a series of action levels indicating the health risk associated with different levels of radon exposure.

"(2) OTHER INFORMATION.—The updated citizen's guide shall also include information with respect to each of the following:

"(A) The increased health risk associated with the exposure of potentially sensitive populations to different levels of radon.

"(B) The increased health risk associated with the exposure to radon of persons engaged in potentially risk-increasing behavior.

"(C) The cost and technological feasibility of reducing radon concentrations within existing and new buildings.

"(D) The relationship between short-term and long-term testing techniques and the relationship between (i) measurements based on both such techniques, and (ii) the actions levels set forth as provided in paragraph (1).

"(E) Outdoor radon levels around the country.

"SEC. 304. MODEL CONSTRUCTION STANDARDS AND TECHNIQUES. 15 USC 2664.

"The Administrator of the Environmental Protection Agency shall develop model construction standards and techniques for controlling radon levels within new buildings. To the maximum extent possible, these standards and techniques should be developed with the assistance of organizations involved in establishing national building construction standards and techniques. The Administrator shall make a draft of the document containing the model standards and techniques available for public review and comment. The model standards and techniques shall provide for geographic differences in construction types and materials, geology, weather, and other variables that may affect radon levels in new buildings. The Administrator shall make final model standards and techniques available to the public by June 1, 1990. The Administrator shall work to ensure that organizations responsible for developing national model building codes, and authorities which regulate building

construction within States or political subdivisions within States, adopt the Agency's model standards and techniques.

15 USC 2665.

"SEC. 305. TECHNICAL ASSISTANCE TO STATES FOR RADON PROGRAMS.

"(a) REQUIRED ACTIVITIES.—The Administrator (or another Federal department or agency designated by the Administrator) shall develop and implement activities designed to assist State radon programs. These activities may include, but are not limited to, the following:

Public information.

"(1) Establishment of a clearinghouse of radon related information, including mitigation studies, public information materials, surveys of radon levels, and other relevant information.

"(2) Operation of a voluntary proficiency program for rating the effectiveness of radon measurement devices and methods, the effectiveness of radon mitigation devices and methods, and the effectiveness of private firms and individuals offering radon-related architecture, design, engineering, measurement, and mitigation services. The proficiency program under this subparagraph shall be in operation within one year after the date of the enactment of this section.

102 STAT. 2757

"(3) Design and implementation of training seminars for State and local officials and private and professional firms dealing with radon and addressing topics such as monitoring, analysis, mitigation, health effects, public information, and program design.

"(4) Publication of public information materials concerning radon health risks and methods of radon mitigation.

"(5) Operation of cooperative projects between the Environmental Protection Agency's Radon Action Program and the State's radon program. Such projects shall include the Home Evaluation Program, in which the Environmental Protection Agency evaluates homes and States demonstrate mitigation methods in these homes. To the maximum extent practicable, consistent with the objectives of the evaluation and demonstration, homes of low-income persons should be selected for evaluation and demonstration.

"(6) Demonstration of radon mitigation methods in various types of structures and in various geographic settings and publication of findings. In the case of demonstration of such methods in homes, the Administrator should select homes of low-income persons, to the maximum extent practicable and consistent with the objectives of the demonstration.

"(7) Establishment of a national data base with data organized by State concerning the location and amounts of radon.

"(8) Development and demonstration of methods of radon measurement and mitigation that take into account unique characteristics, if any, of nonresidential buildings housing child care facilities.

"(b) DISCRETIONARY ASSISTANCE.—Upon request of a State, the Administrator (or another Federal department or agency designated by the Administrator) may provide technical assistance to such State in development or implementation of programs addressing radon. Such assistance may include, but is not limited to, the following:

"(1) Design and implementation of surveys of the location and occurrence of radon within a State.

"(2) Design and implementation of public information and education programs.

"(3) Design and implementation of State programs to control radon in existing or new structures.

"(4) Assessment of mitigation alternatives in unusual or unconventional structures.

"(5) Design and implementation of methods for radon measurement and mitigation for nonresidential buildings housing child care facilities.

"(c) INFORMATION PROVIDED TO PROFESSIONAL ORGANIZATIONS.—The Administrator, or another Federal department or agency designated by the Administrator, shall provide appropriate information concerning technology and methods of radon assessment and mitigation to professional organizations representing private firms involved in building design, engineering, and construction.

"(d) PLAN.—Within 9 months after the date of the enactment of this section and annually thereafter, the Administrator shall submit to Congress a plan identifying assistance to be provided under this section and outlining personnel and financial resources necessary to implement this section. Prior to submission to Congress, this plan shall be reviewed by the advisory groups provided for in section 403(c) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 7401 note). 102 STAT. 2758

"(e) PROFICIENCY RATING PROGRAM AND TRAINING SEMINAR.—

"(1) AUTHORIZATION.—There is authorized to be appropriated not more than $1,500,000 for the purposes of initially establishing the proficiency rating program under subsection (a)(2) and the training seminars under subsection (a)(3).

"(2) CHARGE IMPOSED.—To cover the operating costs of such proficiency rating program and training seminars, the Administrator shall impose on persons applying for a proficiency rating and on private and professional firms participating in training seminars such charges as may be necessary to defray the costs of the program or seminars. No such charge may be imposed on any State or local government.

"(3) SPECIAL ACCOUNT.—Funds derived from the charges imposed under paragraph (2) shall be deposited in a special account in the Treasury. Amounts in the special account are authorized to be appropriated only for purposes of administering such proficiency rating program or training seminars or for reimbursement of funds appropriated to the Administrator to initially establish such program or seminars.

"(4) REIMBURSEMENT OF GENERAL FUND.—During the first three years of the program and seminars, the Administrator shall make every effort, consistent with the goals and successful operation of the program and seminars, to set charges imposed under paragraph (2) so that an amount in excess of operation costs is collected. Such excess amount shall be used to reimburse the General Fund of the Treasury for the full amount appropriated to initially establish the program and seminars.

"(f) AUTHORIZATION.—(1) There is authorized to be appropriated for the purposes of carrying out sections 303, 304, and this section an amount not to exceed $3,000,000 for each of fiscal years 1989, 1990, and 1991.

"(2) No amount appropriated under this subsection may be used by the Environmental Protection Agency to administer the grant program under section 306.

"(3) No amount appropriated under this subsection may be used to cover the costs of the proficiency rating program under subsection (a)(2).

"SEC. 306. GRANT ASSISTANCE TO STATES FOR RADON PROGRAMS. 15 USC 2666.

"(a) IN GENERAL.—For each fiscal year, upon application of the Governor of a State, the Administrator may make a grant, subject to such terms and conditions as the Administrator considers appropriate, under this section to the State for the purpose of assisting the State in the development and implementation of programs for the assessment and mitigation of radon.

"(b) APPLICATION.—An application for a grant under this section in any fiscal year shall contain such information as the Administrator shall require, including each of the following:

"(1) A description of the seriousness and extent of radon exposure in the State.

"(2) An identification of the State agency which has the primary responsibility for radon programs and which will receive the grant, a description of the roles and responsibilities of

102 STAT. 2759

the lead State agency and any other State agencies involved in radon programs, and description of the roles and responsibilities of any municipal, district, or areawide organization involved in radon programs.

"(3) A description of the activities and programs related to radon which the State proposes in such year.

"(4) A budget specifying Federal and State funding of each element of activity of the grant application.

"(5) A 3-year plan which outlines long range program goals and objectives, tasks necessary to achieve them, and resource requirements for the entire 3-year period, including anticipated State funding levels and desired Federal funding levels. This clause shall apply only for the initial year in which a grant application is made.

"(c) ELIGIBLE ACTIVITIES.—Activities eligible for grant assistance under this section are the following:

"(1) Survey of radon levels, including special surveys of geographic areas or classes of buildings (such as, among others, public buildings, school buildings, high-risk residential construction types).

"(2) Development of public information and educational materials concerning radon assessment, mitigation, and control programs.

"(3) Implementation of programs to control radon in existing and new structures.

"(4) Purchase by the State of radon measurement equipment or devices.

"(5) Purchase and maintenance of analytical equipment connected to radon measurement and analysis, including costs of calibration of such equipment.

"(6) Payment of costs of Environmental Protection Agency-approved training programs related to radon for permanent State or local employees.

"(7) Payment of general overhead and program administration costs.

"(8) Development of a data storage and management system for information concerning radon occurrence, levels, and programs.

"(9) Payment of costs of demonstration of radon mitigation methods and technologies as approved by the Administrator, including State participation in the Environmental Protection Agency Home Evaluation Program.

"(10) A toll-free radon hotline to provide information and technical assistance.

"(d) PREFERENCE TO CERTAIN STATES.—Beginning in fiscal year 1991, the Administrator shall give a preference for grant assistance under this section to States that have made reasonable efforts to ensure the adoption, by the authorities which regulate building construction within that State or political subdivisions within States, of the model construction standards and techniques for new buildings developed under section 304.

"(e) PRIORITY ACTIVITIES AND PROJECTS.—The Administrator shall support eligible activities contained in State applications with the full amount of available funds. In the event that State applications for funds exceed the total funds available in a fiscal year, the Administrator shall give priority to activities or projects proposed by States based on each of the following criteria:

"(1) The seriousness and extent of the radon contamination problem to be addressed.

102 STAT. 2760

"(2) The potential for the activity or project to bring about reduction in radon levels.

"(3) The potential for development of innovative radon assessment techniques, mitigation measures as approved by the Administrator, or program management approaches which may be of use to other States.

"(4) Any other uniform criteria that the Administrator deems necessary to promote the goals of the grant program and that the Administrator provides to States before the application process.

"(f) FEDERAL SHARE.—The Federal share of the cost of radon program activities implemented with Federal assistance under this section in any fiscal year shall not exceed 75 percent of the costs incurred by the State in implementing such program in the first year of a grant to such State, 60 percent in the second year, and 50 percent in the third year. Federal assistance shall be made on the condition that the non-Federal share is provided from non-Federal funds.

"(g) ASSISTANCE TO LOCAL GOVERNMENTS.—States may, at the Governor's discretion, use funds from grants under this section to assist local governments in implementation of activities eligible for assistance under paragraphs (2), (3), and (6) of subsection (c).

"(h) INFORMATION.—(1) The Administrator may request such information, data, and reports developed by the State as he considers necessary to make the determination of continuing eligibility under this section.

"(2) Any State receiving funds under this section shall provide to the Administrator all radon-related information generated in its activities, including the results of radon surveys, mitigation demonstration projects, and risk communication studies.

"(3) Any State receiving funds under this section shall maintain, and make available to the public, a list of firms and individuals within the State that have received a passing rating under the Environmental Protection Agency proficiency rating program referred to in section 305(a)(2). The list shall also include the address and phone number of such firms and individuals, together with the proficiency rating received by each. The Administrator shall make such list available to the public at appropriate locations in each State which does not receive funds under this section unless the State assumes such responsibility.

"(i) LIMITATIONS.—(1) No grant may be made under this section in any fiscal year to a State which in the preceding fiscal year received a grant under this section unless the Administrator determines that such State satisfactorily implemented the activities funded by the grant in such preceding fiscal year.

"(2) The costs of implementing paragraphs (4) and (9) of subsection (c) shall not in the aggregate exceed 50 percent of the amount of any grant awarded under this section to a State in a fiscal year. In implementing such paragraphs, a State should make every effort, consistent with the goals and successful operation of the State radon program, to give a preference to low-income persons.

"(3) The costs of general overhead and program administration under subsection (c)(7) shall not exceed 25 percent of the amount of any grant awarded under this section to a State in a fiscal year.

"(4) A State may use funds received under this section for financial assistance to persons only to the extent such assistance is related to demonstration projects or the purchase and analysis of radon measurement devices. 102 STAT. 2761

"(j) AUTHORIZATION.—(1) There is authorized to be appropriated for grant assistance under this section an amount not to exceed $10,000,000 for each of fiscal years 1989, 1990, and 1991.

"(2) There is authorized to be appropriated for the purpose of administering the grant program under this section such sums as may be necessary for each of such fiscal years.

"(3) Notwithstanding any other provision of this section, not more than 10 percent of the amount appropriated to carry out this section may be used to make grants to any one State.

"(4) Funds not obligated to States in the fiscal year for which funds are appropriated under this section shall remain available for obligation during the next fiscal year.

"(5) No amount appropriated under this subsection may be used to cover the costs of the proficiency rating program under section 305(a)(2).

15 USC 2667.

"SEC. 307. RADON IN SCHOOLS.

"(a) STUDY OF RADON IN SCHOOLS.—

"(1) AUTHORITY.—The Administrator shall conduct a study for the purpose of determining the extent of radon contamination in the Nation's school buildings.

"(2) LIST OF HIGH PROBABILITY AREAS.—In carrying out such study, the Administrator shall identify and compile a list of areas within the United States which the Administrator determines have a high probability of including schools which have elevated levels of radon.

"(3) BASIS OF LIST.—In compiling such list, the Administrator shall make such determinations on the basis of, among other things, each of the following:

"(A) Geological data.

"(B) Data on high radon levels in homes and other structures nearby any such school.

"(C) Physical characteristics of the school buildings.

"(4) SURVEY.—In conducting such study the Administrator shall design a survey which when completed allows Congress to characterize the extent of radon contamination in schools in each State. The survey shall include testing from a representative sample of schools in each high-risk area identified in paragraph (1) and shall include additional testing, to the extent resources are available for such testing. The survey also shall include any reliable testing data supplied by States, schools, or other parties.

"(5) ASSISTANCE.—(A) The Administrator shall make available to the appropriate agency of each State, as designated by the Governor of such State, a list of high risk areas within each State, including a delineation of such areas and any other data available to the Administrator for schools in that State. To assist such agencies, the Administrator also shall provide guidance and data detailing the risks associated with high radon levels, technical guidance and related information concerning testing for radon within schools, and methods of reducing radon levels.

"(B) In addition to the assistance authorized by subparagraph (A), the Administrator is authorized to make available to the appropriate agency of each State, as designated by the Governor of such State, devices suitable for use by such agencies in conducting tests for radon within the schools under the jurisdiction of any such State agency. The Administrator is authorized to make available to such agencies the use of laboratories of the Environmental Protection Agency, or to recommend laboratories, to evaluate any such devices for the presence of radon levels.

102 STAT. 2762

"(6) DIAGNOSTIC AND REMEDIAL EFFORTS.—The Administrator is authorized to select, from high-risk areas identified in paragraph (2), school buildings for purposes of enabling the Administrator to undertake diagnostic and remedial efforts to reduce the levels of radon in such school buildings. Such diagnostic and remedial efforts shall be carried out with a view to developing technology and expertise for the purpose of making such technology and expertise available to any local educational agency and the several States.

"(7) STATUS REPORT.—On or before October 1, 1989, the Administrator shall submit to the Congress a status report with respect to action taken by the Administrator in conducting the study required by this section, including the results of the Administrator's diagnostic and remedial work. On or before October 1, 1989, the Administrator shall submit a final report setting forth the results of the study conducted pursuant to this section, including the results of the Administrator's diagnostic and remedial work, and the recommendations of the Administrator.

"(b) AUTHORIZATION.—For the purpose of carrying out the provisions of paragraph (6) of subsection (a), there are authorized to be

appropriated such sums, not to exceed $500,000, as may be necessary. For the purpose of carrying out the provisions of this section other than such paragraph (6), there are authorized to be appropriated such sums, not to exceed $1,000,000, as may be necessary.

"SEC. 308. REGIONAL RADON TRAINING CENTERS. 15 USC 2668.

"(a) FUNDING PROGRAM.—Upon application of colleges, universities, institutions of higher learning, or consortia of such institutions, the Administrator may make a grant or cooperative agreement, subject to such terms and conditions as the Administrator considers appropriate, under this section to the applicant for the purpose of establishing and operating a regional radon training center. Schools and colleges. Grants.

"(b) PURPOSE OF THE CENTERS.—The purpose of a regional radon training center is to develop information and provide training to Federal and State officials, professional and private firms, and the public regarding the health risks posed by radon and demonstrated methods of radon measurement and mitigation.

"(c) APPLICATIONS.—Any colleges, universities, institutions of higher learning or consortia of such institutions may submit an application for funding under this section. Such applications shall be submitted to the Administrator in such form and containing such information as the Administrator may require. Schools and colleges.

"(d) SELECTION CRITERIA.—The Administrator shall support at least 3 eligible applications with the full amount of available funds. The Administrator shall select recipients of funding under this section to ensure that funds are equitably allocated among regions of the United States, and on the basis of each of the following criteria: 102 STAT. 2763

"(1) The extent to which the applicant's program will promote the purpose described in subsection (b).

"(2) The demonstrated expertise of the applicant regarding radon measurement and mitigation methods and other radon-related issues.

"(3) The demonstrated expertise of the applicant in radon training and in activities relating to information development and dissemination.

"(4) The seriousness of the radon problem in the region.

"(5) The geographical coverage of the proposed center.

"(6) Any other uniform criteria that the Administrator deems necessary to promote the purpose described in subsection (b) and that the Administrator provides to potential applicants prior to the application process.

"(e) TERMINATION OF FUNDING.—No funding may be given under this section in any fiscal year to an applicant which in the preceding fiscal year received funding under this section unless the Administrator determines that the recipient satisfactorily implemented the activities that were funded in the preceding year.

"(f) AUTHORIZATION.—There is authorized to be appropriated to carry out the program under this section not to exceed $1,000,000 for each of fiscal years 1989, 1990, and 1991.

"SEC. 309. STUDY OF RADON IN FEDERAL BUILDINGS. 15 USC 2669.

"(a) STUDY REQUIREMENT.—The head of each Federal department or agency that owns a Federal building shall conduct a study for the purpose of determining the extent of radon contamination in such buildings. Such study shall include, in the case of a Federal building using a nonpublic water source (such as a well or other groundwater), radon contamination of the water. Water.

"(b) HIGH-RISK FEDERAL BUILDINGS.—(1) The Administrator shall identify and compile a list of areas within the United States which the Administrator, in consultation with Federal departments and agencies, determines have a high probability of including Federal buildings which have elevated levels of radon.

"(2) In compiling such list, the Administrator shall make such determinations on the basis of, among other things, the following:

"(A) Geological data.

"(B) Data on high radon levels in homes and other structures near any such Federal building.

"(C) Physical characteristics of the Federal buildings.

"(c) STUDY DESIGNS.—Studies required under subsection (a) shall be based on design criteria specified by the Administrator. The head of each Federal department or agency conducting such a study shall submit, not later than July 1, 1989, a study design to the Administrator for approval. The study design shall follow the most recent Environmental Protection Agency guidance documents, including 'A Citizen's Guide to Radon'; the 'Interim Protocol for Screening and Follow Up: Radon and Radon Decay Products Measurements'; the 'Interim Indoor Radon & Radon Decay Product Measurement Protocol'; and any other recent guidance documents. The study design shall include testing data from a representative sample of Federal buildings in each high-risk area identified in subsection (b). The study design also shall include additional testing data to the extent resources are available, including any reliable data supplied by

102 STAT. 2764 Federal agencies, States, or other parties.

"(d) INFORMATION ON RISKS AND TESTING.—(1) The Administrator shall provide to the departments or agencies conducting studies under subsection (a) the following:

"(A) Guidance and data detailing the risks associated with high radon levels.

"(B) Technical guidance and related information concerning testing for radon within Federal buildings and water supplies.

"(C) Technical guidance and related information concerning methods for reducing radon levels.

"(2) In addition to the assistance required by paragraph (1), the Administrator is authorized to make available, on a cost reimbursable basis, to the departments or agencies conducting studies under subsection (a) devices suitable for use by such departments or agencies in conducting tests for radon within Federal buildings. For the purpose of assisting such departments or agencies in evaluating any such devices for the presence of radon levels, the Administrator is authorized to recommend laboratories or to make available to such departments or agencies, on a cost reimbursable basis, the use of laboratories of the Environmental Protection Agency.

"(e) STUDY DEADLINE.—Not later than June 1, 1990, the head of each Federal department or agency conducting a study under subsection (a) shall complete the study and provide the study to the Administrator.

"(f) REPORT TO CONGRESS.—Not later than October 1, 1990, the Administrator shall submit a report to the Congress describing the results of the studies conducted pursuant to subsection (a).

15 USC 2670. "SEC. 310. REGULATIONS.

"The Administrator is authorized to issue such regulations as may be necessary to carry out the provisions of this title.

15 USC 2671. "SEC. 311. ADDITIONAL AUTHORIZATIONS.

"Amounts authorized to be appropriated in this title for purposes of carrying out the provisions of this title are in addition to amounts authorized to be appropriated under other provisions of law for

102 STAT. 2765 radon-related activities.".

(b) TECHNICAL AMENDMENTS.—The Toxic Substances Control Act (15 U.S.C. 2601 and following) is amended by adding at the end of the table of contents in section 1 the following:

"TITLE III—INDOOR RADON ABATEMENT

"Sec. 301. National goal.
"Sec. 302. Definitions.
"Sec. 303. EPA Citizen's guide.
"Sec. 304. Model construction standards and techniques.
"Sec. 305. Technical assistance to States for radon programs.
"Sec. 306. Grant assistance to States for radon programs.

"Sec. 307. Radon in schools.
"Sec. 308. Regional radon training centers.
"Sec. 309. Study of radon in Federal buildings.
"Sec. 310. Regulations.
"Sec. 311. Additional authorizations.".

Approved October 28, 1988.

LEGISLATIVE HISTORY—S. 744 (H.R. 2837):

HOUSE REPORTS: No. 100-1047 accompanying H.R. 2837 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-91 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 133 (1987): July 8, considered and passed Senate.
Vol. 134 (1988): Oct. 5, H.R. 2837 considered and passed House; proceedings vacated and S. 744, amended, passed in lieu.
Oct. 7, Senate concurred in House amendments.

Public Law 100-561
100th Congress

102 STAT. 2805

An Act

To amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1988 and 1989, and for other purposes.

Oct. 31, 1988
[H.R. 2266]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Pipeline Safety Reauthorization Act of 1988.
State and local governments.
49 USC app. 1671 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pipeline Safety Reauthorization Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—NATURAL GAS PIPELINE SAFETY

Sec. 101. Certification authority.
Sec. 102. State notification and pipeline inventory.
Sec. 103. State enforcement.
Sec. 104. Qualifications for State grant programs.
Sec. 105. Federal-State cooperation in case of accident.
Sec. 106. Increased civil penalties.
Sec. 107. Destruction of signs or markers.
Sec. 108. Additional inspection and testing.
Sec. 109. State prenotification of testing.
Sec. 110. Authorization for appropriations.

TITLE II—HAZARDOUS LIQUID PIPELINE SAFETY

Sec. 201. Certification authority.
Sec. 202. State notification and pipeline inventory.
Sec. 203. State enforcement.
Sec. 204. Qualifications for State grant programs.
Sec. 205. Increased civil penalties.
Sec. 206. Destruction of signs or markers.
Sec. 207. Additional inspection and testing.
Sec. 208. State prenotification of testing.
Sec. 209. Federal-State cooperation in case of accident.
Sec. 210. Authorization for appropriations.
Sec. 211. Carbon dioxide.

TITLE III—GENERALLY APPLICABLE PIPELINE SAFETY PROVISIONS

Sec. 301. Grants-in-aid authorization.
Sec. 302. Additional hirings.
Sec. 303. Minimum requirements for one-call notification systems.

Sec. 304. Internal inspection of pipelines.
Sec. 305. Emergency flow restricting devices.
Sec. 306. Feasibility of regulating excavation activities.
Sec. 307. Pipeline safety instructors.
Sec. 308. Clarification of congressional intent.

TITLE IV—MOTOR VEHICLE INFORMATION AND COST SAVINGS

102 STAT. 2806 Sec. 401. Transfer of titles held by lienholders.

TITLE I—NATURAL GAS PIPELINE SAFETY

SEC. 101. CERTIFICATION AUTHORITY.

Section 3(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(a)(1)) is amended by inserting after the second sentence the following: "Such standards may include a requirement that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to perform such functions.".

SEC. 102. STATE NOTIFICATION AND PIPELINE INVENTORY.

Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672) is amended by adding at the end the following new subsections:

Regulations. "(e) NOTIFICATION STANDARDS.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall establish by regulation minimum Federal standards requiring operators of pipeline facilities subject to this Act (to the extent practicable) to provide, and revise as necessary, information relating to the operation of such facilities. Such information shall be completed and maintained and be provided, upon request, to the Secretary and an appropriate official of a State, as the case may be. Such information shall include the following:

"(1) The business name, address, and telephone number, including an operations emergency telephone number, of the operator.

"(2) An accurate map or maps, along with an appropriate supplementary geographic description, showing the location of major pipeline facilities, including all transmission lines and significant distribution lines, of such operator in the State.

"(3) A description of the characteristics of the operator's pipelines within the State.

"(4) A description of all products transported through the operator's pipelines within the State.

"(5) The manual which governs operations and maintenance of the pipeline facilities located in the State.

"(6) An emergency response plan describing the operator's procedures for responding to and containing releases, including—

"(A) an identification of specific actions which will be taken by the operator on discovery of a release;

"(B) liaison procedures with State and local government agencies for emergency response; and

"(C) communication and alert procedures for immediate notification of State and local officials at the time of any release.

"(7) Any other information the Secretary considers useful and necessary to inform the States of the presence of pipeline facilities and operations within their boundaries.

Regulations. "(f) PIPELINE INVENTORY STANDARDS.—The Secretary shall, by regulation, establish minimum Federal standards to require, not later than 1 year after the date of the enactment of this subsection, operators of pipeline facilities subject to this Act, to the extent practicable, to complete and maintain for the Secretary, and to

revise as appropriate thereafter, an inventory with appropriate information with respect to all types of pipe used for the transmission of gas in such operator's system, along with additional information such as the material history and the leak history of such pipe. Such inventory shall exclude equipment used with the compression of gas.". 102 STAT. 2807

SEC. 103. STATE ENFORCEMENT.

Section 5(a)(3) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(a)(3)) is amended by inserting "through means which include inspections conducted by State employees who meet qualifications established by the Secretary under subsection (d)" after "each such standard".

SEC. 104. QUALIFICATIONS FOR STATE GRANT PROGRAMS.

Section 5(d) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(d)) is amended by adding at the end the following new paragraph:

"(5) QUALIFICATIONS FOR STATE GRANT PROGRAMS.—The Secretary may establish by regulation qualifications for States to meet in order to participate in the pipeline safety grant program under this subsection, including qualifications for State employees who perform inspection activities pursuant to either an annual certification by a State agency or an agreement relating to inspection between a State agency and the Secretary. Such regulations may take into account the experience and training of the State employee, may mandate training or other requirements, and may provide for conditional approval of qualifications pending satisfaction of specified requirements.".

SEC. 105. FEDERAL-STATE COOPERATION IN CASE OF ACCIDENT.

Section 9 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1676) is amended—

(1) by inserting "(a) GENERAL RULE.—" before "Whenever"; and

(2) by adding at the end the following new subsection:

"(b) COORDINATION PROCEDURES.—Not later than 1 year after the date of the enactment of this subsection, the Secretary, after consultation with appropriate State officials, shall establish procedures to promote more effective coordination between the agencies of the United States and of the States with regulatory authority over pipeline facilities with respect to responses to pipeline accidents.".

SEC. 106. INCREASED CIVIL PENALTIES.

Section 11(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679a(a)(1)) is amended—

(1) by inserting ", after notice and an opportunity for a hearing," after "Secretary";

(2) by striking out "$1,000" and inserting in lieu thereof "$10,000"; and

(3) by striking out "$200,000" and inserting in lieu thereof "$500,000".

SEC. 107. DESTRUCTION OF SIGNS OR MARKERS.

Section 11(c) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679a(c)) is amended by adding at the end the following new paragraph: 102 STAT. 2808

"(3) DESTRUCTION OF SIGNS OR MARKERS.—Any person who willfully and knowingly defaces, damages, removes, or destroys any pipeline sign or right-of-way marker required by Federal law or regulation shall, upon conviction, be subject, for each offense, to a fine of not more than $5,000, imprisonment for a term not to exceed 1 year, or both.". Law enforcement and crime.

SEC. 108. ADDITIONAL INSPECTION AND TESTING.

(a) INSPECTION AND TESTING.—Section 13 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1680) is amended—

(1) by inserting "(a) PIPELINE OPERATOR'S RESPONSIBILITIES.—" before "Each person who engages"; and

(2) by adding at the end the following new subsection:

"(b) SECRETARY'S RESPONSIBILITIES.—

"(1) IN GENERAL.—The Secretary shall inspect and, as appropriate, shall require testing of pipeline facilities subject to this Act and not covered by an agreement or certification under section 5 to ensure the safety of such pipeline facilities. To the extent and in such amounts as are provided in advance by appropriation Acts, such inspections shall be at intervals determined under paragraph (2) but no less frequently than once every 2 years thereafter; except that the Secretary may reduce the frequency of such inspections with respect to master meter systems. Such inspections shall begin as soon as feasible, but in no event more than 1 year after the date of the enactment of this subsection. Such testing shall be performed using the most appropriate technology practicable.

"(2) CRITERIA FOR FREQUENCY AND TYPE.—The frequency and type of inspection and testing under this subsection shall be determined by the Secretary on a case-by-case basis after consideration of the following factors:

"(A) The location of the pipeline facilities.

"(B) The type, size, age, manufacturer, method of construction, and condition of the pipeline facilities.

"(C) The nature and volume of the materials transported through the pipeline facilities and the pressure at which they are transported.

"(D) The climatic, geologic, and seismic characteristics of, and conditions (including soil characteristics) associated with the areas in which the pipeline facilities are located, and the existing and projected population and demographic characteristics associated with such areas.

"(E) The frequency of leaks, if any.

"(F) Any other factors determined by the Secretary to be relevant to the safety of pipeline facilities.".

(b) INSTRUMENTED INTERNAL INSPECTION DEVICES.—Section 3 of such Act (49 U.S.C. App. 1672) is amended by adding at the end the following new subsection:

Regulations.

"(g) INSTRUMENTED INTERNAL INSPECTION DEVICES.—The Secretary shall, by regulation, establish minimum Federal safety standards requiring that—

"(1) the design and construction of new transmission facilities, and

"(2) when replacement of existing transmission facilities or equipment is required, the replacement of such existing facilities,

102 STAT. 2809

be carried out, to the extent practicable, in a manner so as to accommodate the passage through such transmission facilities of instrumented internal inspection devices (commonly referred to as 'smart pigs').".

49 USC app. 1680 note.

(c) IMPROVEMENT OF MASTER METER INSPECTION PROGRAM.—

(1) STUDY.—The Secretary of Transportation shall undertake a study to assess the need for an improved inspection program for master meter systems.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report detailing the Secretary's findings under paragraph (1) together with any recommendations of the Secretary for appropriate legislation.

SEC. 109. STATE PRENOTIFICATION OF TESTING.

Section 14(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1681(a)) is amended by inserting after the first sentence the following new sentence: "Prior to requiring such testing, the Secretary shall notify the appropriate State official in the State in which the affected pipeline facility is located.".

SEC. 110. AUTHORIZATION FOR APPROPRIATIONS.

Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) $3,733,000 for the fiscal year ending September 30, 1988;

"(7) $3,978,000 for the fiscal year ending September 30, 1989;

"(8) $4,086,000 for the fiscal year ending September 30, 1990; and

"(9) $4,270,000 for the fiscal year ending September 30, 1991.

The Secretary may credit to any appropriation authorized under this subsection funds received from non-Federal sources for reimbursement for expenses incurred by the Secretary in providing training. The Secretary may expend in fiscal year 1989 or fiscal year 1990 not to exceed $50,000 of funds appropriated pursuant to this subsection for such fiscal year for establishing a training program for persons who install, operate, and maintain a system of providing natural gas for more than one unit in a definable area (including a building or series of buildings, a mobile home park, a housing project, or an apartment complex) through use of a master metering system in lieu of separate meters."

TITLE II—HAZARDOUS LIQUID PIPELINE SAFETY

SEC. 201. CERTIFICATION AUTHORITY.

Section 203(c) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(c)) is amended by inserting after the first sentence the following: "Such standards may include a requirement that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to perform such functions".

102 STAT. 2810

SEC. 202. STATE NOTIFICATION AND PIPELINE INVENTORY.

Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002) is amended by adding at the end the following new subsections:

"(i) NOTIFICATION STANDARDS.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall establish by regulation minimum Federal standards requiring operators of pipeline facilities subject to this title (to the extent practicable) to provide, and revise as necessary, information relating to operation of such facilities. Such information shall be completed and maintained and be provided, upon request, to the Secretary and an appropriate official of a State, as the case may be. Such information shall include the following:

Regulations.

"(1) The business name, address, and telephone number, including an operations emergency telephone number, of the operator.

"(2) An accurate map or maps, along with any appropriate supplementary geographic description, showing the location of major pipeline facilities of such operator in the State.

"(3) A description of the characteristics of the operator's pipelines within the State.

"(4) A description of all products transported through the operator's pipelines within the State.

"(5) The manual which governs operations and maintenance of the pipeline facilities located in the State.

"(6) An emergency response plan describing the operator's procedures for responding to and containing releases, including—

"(A) an identification of specific actions which will be taken by the operator on discovery of a release;

"(B) liaison procedures with State and local government agencies for emergency response; and

"(C) communication and alert procedures for immediate notification of State and local officials at the time of any release.

"(7) Any other information the Secretary considers useful and necessary to inform the States of the presence of pipeline facilities and operations within their boundaries.

Regulations.

"(j) PIPELINE INVENTORY STANDARDS.—The Secretary shall, by regulation, establish minimum Federal standards to require, not later than 1 year after the date of the enactment of this subsection, operators of pipeline facilities subject to this title, to the extent practicable, to complete and maintain for the Secretary, and revise as appropriate thereafter, an inventory with appropriate information with respect to all types of pipe used for the transmission of hazardous liquids in such operator's system, along with additional information such as the material history and the leak history of such pipe. Such inventory shall exclude equipment associated only with the pipeline pumps or storage facilities.".

SEC. 203. STATE ENFORCEMENT.

Section 205(a)(3) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(a)(3)) is amended by inserting "through means which include inspections conducted by State employees who meet qualifications established by the Secretary under subsection (d)" after "each such standard".

102 STAT. 2811

SEC. 204. QUALIFICATIONS FOR STATE GRANT PROGRAMS.

Section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)) is amended by adding at the end the following new paragraph:

"(5) QUALIFICATIONS FOR STATE GRANT PROGRAMS.—The Secretary may establish by regulation qualifications for States to meet in order to participate in the pipeline safety grant program under this subsection, including qualifications for State employees who perform inspection activities pursuant to either an annual certification by a State agency or an agreement relating to inspection between a State agency and the Secretary. Such regulations may take into account the experience and training of the State employee, may mandate training or other requirements, and may provide for conditional approval of qualifications pending satisfaction of specified requirements.".

SEC. 205. INCREASED CIVIL PENALTIES.

Section 208(a)(1) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2007(a)(1)) is amended—

(1) by inserting ", after notice and an opportunity for a hearing," after "Secretary";

(2) by striking out "$1,000" and inserting in lieu thereof "$10,000"; and

(3) by striking out "$200,000" and inserting in lieu thereof "$500,000".

SEC. 206. DESTRUCTION OF SIGNS OR MARKERS.

Section 208(c) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2007(c)) is amended by adding at the end the following new paragraph:

Law enforcement and crime.

"(3) DESTRUCTION OF SIGNS OR MARKERS.—Any person who willfully and knowingly defaces, damages, removes, or destroys any pipeline sign or right-of-way marker required by Federal law or regulation shall, upon conviction, be subject, for each offense, to a fine of not more than $5,000, imprisonment for a term not to exceed 1 year, or both.".

SEC. 207. ADDITIONAL INSPECTION AND TESTING.

(a) INSPECTION AND TESTING.—Section 210 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2009) is amended by adding at the end the following new subsection:

"(d) SECRETARY'S RESPONSIBILITIES.—

"(1) IN GENERAL.—The Secretary shall inspect and, as appropriate, shall require testing of pipeline facilities subject to this title and not covered by an agreement or certification under section 205 to ensure the safety of such pipeline facilities. To the extent and in such amounts as are provided in advance by appropriation Acts, such inspections shall be at intervals determined under paragraph (2) but no less frequently than once every 2 years thereafter. Such inspections shall begin as soon as feasible, but in no event more than 1 year after the date of the enactment of this subsection. Such testing shall be performed using the most appropriate technology practicable.

"(2) CRITERIA FOR FREQUENCY AND TYPE.—The frequency and type of inspection and testing under this subsection shall be determined by the Secretary on a case-by-case basis after consideration of the following factors: 102 STAT. 2812

"(A) The location of the pipeline facilities.

"(B) The type, size, age, manufacture, method of construction, and condition of the pipeline facilities.

"(C) The nature and volume of the materials transported through the pipeline facilities and the pressure at which they are transported.

"(D) The climatic, geologic, and seismic characteristics of, and conditions (including soil characteristics) associated with the areas in which the pipeline facilities are located, and the existing and projected population and demographic characteristics associated with such areas.

"(E) The frequency of leaks, if any.

"(F) Any other factors determined by the Secretary to be relevant to the safety of pipeline facilities.".

(b) INSTRUMENTED INTERNAL INSPECTION DEVICES.—Section 203 of such Act (49 U.S.C. App. 2002) is amended by inserting at the end the following new subsection:

"(k) INSTRUMENTED INTERNAL INSPECTION DEVICES.—The Secretary shall, by regulation, establish minimum Federal safety standards requiring that— Regulations.

"(1) the design and construction of new pipeline facilities, and

"(2) when the replacement of existing pipeline facilities or equipment is required, the replacement of such existing facilities,

be carried out, to the extent practicable, in a manner so as to accommodate the passage through such pipeline facilities of instrumented internal inspection devices (commonly referred to as 'smart pigs').".

(c) TECHNICAL CORRECTION.—Section 210 of such Act (49 U.S.C. App. 2009) is amended by striking the last sentence of subsection (c)(3) and inserting such sentence at the end of subsection (a).

SEC. 208. STATE PRENOTIFICATION OF TESTING.

Section 211(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2010(a)) is amended by inserting after the first sentence the following new sentence: "Prior to requiring such testing, the Secretary shall notify the appropriate State official in the State in which the affected pipeline facility is located.".

SEC. 209. FEDERAL-STATE COOPERATION IN CASE OF ACCIDENT.

Section 212 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2011) is amended by adding at the end the following new subsection:

"(d) COORDINATION PROCEDURES.—Not later than 1 year after the date of the enactment of this subsection, the Secretary, after consultation with appropriate State officials, shall establish procedures to promote more effective coordination between the agencies of the United States and of the States with regulatory authority over pipeline facilities with respect to responses to pipeline accidents.".

SEC. 210. AUTHORIZATION FOR APPROPRIATIONS.

Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

102 STAT. 2813

(3) by adding at the end the following:

"(6) $921,000 for the fiscal year ending September 30, 1988;

"(7) $995,000 for the fiscal year ending September 30, 1989;

"(8) $1,021,000 for the fiscal year ending September 30, 1990; and

"(9) $1,067,000 for the fiscal year ending September 30, 1991.

The Secretary may credit to any appropriation authorized under this subsection funds received from non-Federal sources for reimbursement for expenses incurred by the Secretary in providing training.".

49 USC app. 2015.

SEC. 211. CARBON DIOXIDE.

(a) REGULATION.—The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.) is further amended by adding at the end the following new section:

"SEC. 219. CARBON DIOXIDE.

"(a) GENERAL RULE.—In addition to hazardous liquids, the Secretary shall regulate under this title carbon dioxide which is transported by pipeline facilities.

"(b) REGULATIONS.—The Secretary, as necessary and appropriate, shall amend regulations issued with respect to hazardous liquids under this title and shall issue new regulations to ensure the safe transportation of carbon dioxide by pipeline facilities.".

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Hazardous Liquid Pipeline Safety Act of 1979 is amended by inserting

"Sec. 219. Carbon dioxide."

after

"Sec. 218. Savings provisions.".

49 USC app. 2015 note.

(c) EFFECTIVE DATE.—Section 219(a) of the Hazardous Liquid Pipeline Safety Act of 1979, as added by subsection (a) of this section, shall take effect 18 months after the date of the enactment of this Act.

TITLE III—GENERALLY APPLICABLE PIPELINE SAFETY PROVISIONS

SEC. 301. GRANTS-IN-AID AUTHORIZATION.

(a) IN GENERAL.—Subsection (c) of section 17 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684) is amended—

(1) by striking "and" after "September 30, 1986,"; and

(2) by inserting ", $5,000,000 for the fiscal year ending September 30, 1988, $5,500,000 for the fiscal year ending September 30, 1989, $5,500,000 for the fiscal year ending September 30, 1990, and $5,500,000 for the fiscal year ending September 30, 1991" after "September 30, 1987".

(b) MAXIMUM ALLOCATION ON INDIRECT EXPENSES.—

(1) IN GENERAL.—Subsection (d) of such section is amended by inserting "(1) SET ASIDE FOR HAZARDOUS LIQUID GRANTS-IN-AID PROGRAM.—" before "Not less than" and by adding at the end

102 STAT. 2814

thereof the following new paragraph:

"(2) MAXIMUM ALLOCATION TO INDIRECT EXPENSES.—Not more than 20 percent of the amount of a pipeline safety grant made to a State under section 5(d) of this Act and section 205(d) of the Hazardous Pipeline Safety Act of 1979 may be allocated to indirect expenses.".

(2) CONFORMING AMENDMENTS.—Such subsection is further amended—

(A) by inserting "LIMITATION ON GRANTS-IN-AID FUNDS.—" after "(d)" the first place it appears; and

(B) by indenting paragraph (1), as designated by this subsection, and aligning such paragraph with paragraph (2) of such section, as added by this subsection.

(c) ADDITIONAL FUNDING.—Such section is further amended by adding at the end the following new subsection:

"(e) ADDITIONAL FUNDING.—

"(1) ADDITIONAL GRANT FUNDS.—The Secretary shall make available for grants to the States any funds appropriated for fiscal years 1986 and 1987 which have not been expended in making grants under section 5(d) of this Act and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)).

"(2) ELIGIBILITY.—Grants made under this subsection shall be available to States which in 1988 or thereafter (A) undertake new responsibilities under section 5(a) of this Act or section 205(a) of the Hazardous Liquid Pipeline Safety Act of 1979, or (B) implement a one-call damage prevention program established under State law.

"(3) LIMITATIONS.—Nothing in this subsection shall result in any State receiving grant funds under this Act or under the Hazardous Liquid Pipeline Safety Act of 1979 in excess of 50 percent of its allowable pipeline safety costs. No State shall receive funds under this subsection in excess of $75,000.

"(4) AVAILABILITY.—Funds made available under this subsection shall remain available until expended.".

SEC. 302. ADDITIONAL HIRINGS.

Section 17 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684) is amended by adding at the end thereof the following new subsection:

"(f) ADDITIONAL HIRING.—For purposes of hiring 8 additional inspectors to carry out inspections under section 13(b) of this Act and section 210(d) of the Hazardous Liquid Pipeline Safety Act of 1979 and necessary support staff, there is authorized to be appropriated $500,000 for fiscal year 1989. For purposes of retaining the persons hired under the preceding sentence and for hiring 8 additional inspectors to carry out such inspections and necessary support staff, there is authorized to be appropriated $1,000,000 for fiscal year 1990. For purposes of retaining the persons hired under the two preceding sentences, there is authorized to be appropriated $1,000,000 for fiscal year 1991.". Appropriation authorization.

SEC. 303. MINIMUM REQUIREMENTS FOR ONE-CALL NOTIFICATION SYSTEMS.

(a) REQUIREMENT AND GRANT PROGRAM.—The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671-1686) is amended by adding at the end thereof the following new section:

102 STAT. 2815

"SEC. 20. MINIMUM REQUIREMENTS FOR ONE-CALL NOTIFICATION SYSTEMS. 49 USC app. 1687.

"(a) STATE ADOPTION OF SYSTEM.—In making allocations under section 5 of this Act, and under section 205 of the Hazardous Liquid Pipeline Safety Act of 1979, the Secretary shall consider whether a State has adopted or is seeking adoption of a one-call notification system under subsection (b). If the Secretary determines that any State has not adopted, and is not seeking adoption of, such a system, such State may not receive the full reimbursement under such sections to which it would otherwise be entitled.

"(b) ONE-CALL NOTIFICATION SYSTEMS.—Not later than 18 months after the date of the enactment of this section, the Secretary shall issue regulations establishing minimum Federal requirements for Regulations.

establishment and operation of one-call notification systems for adoption by States as described in subsection (a) relating to notification of operators of pipeline facilities of activities in the vicinity of a pipeline facility which could threaten the safety of such facility. Such regulations shall include, but not be limited to, the following:

"(1) A requirement that the system or systems apply to all areas of the State containing underground pipeline facilities.

"(2) A requirement that any person intending to engage in any activity, as determined by the Secretary, which could cause physical damage to an underground pipeline facility must contact the appropriate one-call notification system to determine if there are underground pipeline facilities present in the area of the intended activity.

"(3) A requirement that all operators of underground pipeline facilities participate in an appropriate one-call notification system.

"(4) Qualifications for operation of such a system whether by operators of pipeline facilities, private contractors, or State or local agencies.

"(5) Procedures for advertisement and notice of the availability of such a system.

"(6) Requirements for the information to be provided by persons contacting the system under paragraph (2).

"(7) Requirements for the response of the operator of such notification system and of the operator of the pipeline facility after contact by a person under this subsection.

"(8) A requirement that each State determine whether the notification system will be toll free or not.

"(9) Requirements for sanctions substantially the same as are provided under sections 11 and 12 of this Act.

"(c) GRANTS TO STATES.—The Secretary may make grants to States for development and establishment of one-call notification systems which are consistent with all of the requirements established under subsection (b).

"(d) LIMITATION.—Nothing in this section or any regulation issued under this section shall alter any liability established under Federal or State law for damages caused by activities described in subsection (b)(2).

"(e) PIPELINE FACILITY DEFINED.—As used in this section, the term 'pipeline facility' includes, in addition to pipeline facilities as defined by this Act, any pipeline facility which is described in section 202(4) of the Hazardous Liquid Pipeline Safety Act of 1979.

102 STAT. 2816

"(f) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out subsection (c), there is authorized to be appropriated $1,000,000 per fiscal year for each of fiscal years 1990 and 1991. Such sums shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—(1) Section 5(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(a)) is amended by striking "section 19" and inserting in lieu thereof "sections 19 and 20".

(2) Section 17(a) of such Act (49 U.S.C. 1684(a)) is amended by inserting "or section 20" after "subsection (b) or (c)".

49 USC app. 1680 note.

SEC. 304. INTERNAL INSPECTION OF PIPELINES.

(a) STUDY.—The Secretary of Transportation shall undertake a study assessing the feasibility of requiring the inspection of transmission facilities with instrumented internal inspection devices at periodic intervals determined after consideration of the factors set forth in section 13(b)(2) of the Natural Gas Pipeline Safety Act of 1968 and section 210(d)(2) of the Hazardous Liquid Pipeline Safety Act of 1979.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report detailing the Secretary's findings under subsection (a) together with any recommendations of the Secretary for appropriate legislation.

SEC. 305. EMERGENCY FLOW RESTRICTING DEVICES.

49 USC app. 1672 note.

(a) STUDY.—The Secretary of Transportation shall undertake a study of the safety, cost, feasibility, and effectiveness of requiring operators of pipeline facilities subject to the Natural Gas Pipeline Safety Act of 1968 and operators of pipeline facilities subject to the Hazardous Liquid Pipeline Safety Act of 1979 to install emergency flow restricting devices in existing and future pipeline systems in varying circumstances and locations. The Secretary of Transportation shall also assess the cost and effectiveness of initiating a demonstration project of such emergency flow restricting devices.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report detailing the Secretary's findings under subsection (a) together with any recommendations of the Secretary for appropriate legislation.

SEC. 306. FEASIBILITY OF REGULATING EXCAVATION ACTIVITIES.

49 USC app. 1672 note.

(a) ASSESSMENT AND REPORT.—The Secretary of Transportation shall assess the feasibility of regulating persons whose excavation activities may result in damage to pipeline facilities (as defined under section 2 of the Natural Gas Pipeline Safety Act of 1968 and under section 202 of the Hazardous Liquid Pipeline Safety Act of 1979) and, not later than 1 year after the date of the enactment of this Act, transmit to Congress a report on the results of such assessment together with any legislative recommendations of the Secretary concerning regulation of such persons.

(b) FUNDING.—The Secretary of Transportation may use such sums as may be necessary of funds appropriated pursuant to section 17(a) of the Natural Gas Pipeline Safety Act of 1968 and section 214(a) of the Hazardous Liquid Pipeline Safety Act to carry out this section.

102 STAT. 2817

SEC. 307. PIPELINE SAFETY INSTRUCTORS.

To the extent and in such amounts as are provided in advance by appropriation Acts, the Secretary of Transportation shall increase by not less than 2 the number of instructors of pipeline safety at the Transportation Safety Institute of the Department of Transportation.

SEC. 308. CLARIFICATION OF CONGRESSIONAL INTENT.

49 USC prec. 101 note.

The Act entitled "An Act to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, 'Transportation' ", approved October 17, 1978 (92 Stat. 1337; Public Law 95-473) does not repeal and has no substantive effect on any rights, obligations, liabilities, or remedies of oil pipelines, including those arising under any provisions of the Interstate Commerce Act (49 U.S.C. App. 1 et seq.) or the Pomerene Bills of Lading Act (49 U.S.C. App. 81 et seq.), before any Federal department or agency or official thereof or a court of competent jurisdiction.

TITLE IV—MOTOR VEHICLE INFORMATION AND COST SAVINGS

SEC. 401. TRANSFER OF TITLES HELD BY LIENHOLDERS.

Section 408(d)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988(d)(1)) is amended by adding at the end thereof the following new subparagraph:

"(C) In the case of a transferor to whom title to a motor vehicle has been issued by any State and such title is, at the time of a transfer of such motor vehicle, physically held by a lienholder, nothing in this subsection shall be construed to prohibit for purposes of the mileage disclosure requirements of this section the use of a written power of attorney (if otherwise permitted by State law) in a

form, and under reasonable conditions, prescribed by rule by the Secretary before February 1, 1989. The rule shall (i) ensure disclosure on the power of attorney document of the actual mileage at the time of the transfer, and (ii) ensure that such mileage will be restated exactly by the person exercising the power of attorney in the space referred to in paragraph (2)(A)(iii). The rule, consistent with the purposes of this Act and the need to facilitate enforcement thereof, shall prescribe that the form be issued by the State to the transferee in accordance with paragraph (2)(A)(i) and shall provide for retention of a copy of such power of attorney and for the original to be submitted back to the State by the person granted such power of attorney. The provisions of sections 412 and 413 shall apply to any person granting or granted such power of attorney.".

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 2266 (S. 2424):

HOUSE REPORTS: No. 100-445, Pt. 1 (Comm. on Energy and Commerce) and Pt. 2 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 100-436 accompanying S. 2424 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 19, considered and passed House.
Sept. 30, considered and passed Senate, amended, in lieu of S. 2424.
Oct. 12, House concurred in Senate amendment with an amendment.
Oct. 14, Senate concurred in House amendment.

102 STAT. 2884 Public Law 100-572
100th Congress

An Act

Oct. 31, 1988
[H.R. 4939]

To amend the Safe Drinking Water Act to control lead in drinking water.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Lead Contamination Control Act of 1988.
Consumer protection.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lead Contamination Control Act of 1988".

SEC. 2. LEAD IN DRINKING WATER COOLERS AND IN SCHOOL DRINKING WATER.

(a) ADDITIONAL REQUIREMENTS TO REGULATE THE SAFETY OF DRINKING WATER.—The Safe Drinking Water Act (title XIV of the Public Health Service Act; 42 U.S.C. 300f and following) is amended by adding the following new part at the end thereof:

"PART F—ADDITIONAL REQUIREMENTS TO REGULATE THE SAFETY OF DRINKING WATER

42 USC 300j-21.

"SEC. 1461. DEFINITIONS.

"As used in this part—

"(1) DRINKING WATER COOLER.—The term 'drinking water cooler' means any mechanical device affixed to drinking water supply plumbing which actively cools water for human consumption.

"(2) LEAD FREE.—The term 'lead free' means, with respect to a drinking water cooler, that each part or component of the cooler which may come in contact with drinking water contains not more than 8 percent lead, except that no drinking water cooler which contains any solder, flux, or storage tank interior surface which may come in contact with drinking water shall be considered lead free if the solder, flux, or storage tank interior surface

contains more than 0.2 percent lead. The Administrator may establish more stringent requirements for treating any part or component of a drinking water cooler as lead free for purposes of this part whenever he determines that any such part may constitute an important source of lead in drinking water.

"(3) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means—

"(A) any local educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381),

"(B) the owner of any private, nonprofit elementary or secondary school building, and

"(C) the governing authority of any school operating under the defense dependent's education system provided for under the Defense Dependent's Education Act of 1978 (20 U.S.C. 921 and following).

102 STAT. 2885

"(4) REPAIR.—The term 'repair' means, with respect to a drinking water cooler, to take such corrective action as is necessary to ensure that water cooler is lead free.

"(5) REPLACEMENT.—The term 'replacement', when used with respect to a drinking water cooler, means the permanent removal of the water cooler and the installation of a lead free water cooler.

"(6) SCHOOL.—The term 'school' means any elementary school or secondary school as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854) and any kindergarten or day care facility.

"(7) LEAD-LINED TANK.—The term 'lead-lined tank' means a water reservoir container in a drinking water cooler which container is constructed of lead or which has an interior surface which is not lead free.

"SEC. 1462. RECALL OF DRINKING WATER COOLERS WITH LEAD-LINED TANKS. 42 USC 300j-22.

"For purposes of the Consumer Product Safety Act, all drinking water coolers identified by the Administrator on the list under section 1463 as having a lead-lined tank shall be considered to be imminently hazardous consumer products within the meaning of section 12 of such Act (15 U.S.C. 2061). After notice and opportunity for comment, including a public hearing, the Consumer Product Safety Commission shall issue an order requiring the manufacturers and importers of such coolers to repair, replace, or recall and provide a refund for such coolers within 1 year after the enactment of the Lead Contamination Control Act of 1988. For purposes of enforcement, such order shall be treated as an order under section 15(d) of that Act (15 U.S.C. 2064(d)). Business and industry.

"SEC. 1463. DRINKING WATER COOLERS CONTAINING LEAD. 42 USC 300j-23.

"(a) PUBLICATION OF LISTS.—The Administrator shall, after notice and opportunity for public comment, identify each brand and model of drinking water cooler which is not lead free, including each brand and model of drinking water cooler which has a lead-lined tank. For purposes of identifying the brand and model of drinking water coolers under this subsection, the Administrator shall use the best information available to the Environmental Protection Agency. Within 100 days after the enactment of this section, the Administrator shall publish a list of each brand and model of drinking water cooler identified under this subsection. Such list shall separately identify each brand and model of cooler which has a lead-lined tank. The Administrator shall continue to gather information regarding lead in drinking water coolers and shall revise and republish the list from time to time as may be appropriate as new information or analysis becomes available regarding lead contamination in drinking water coolers. Public information.

"(b) PROHIBITION.—No person may sell in interstate commerce, or manufacture for sale in interstate commerce, any drinking water

cooler listed under subsection (a) or any other drinking water cooler which is not lead free, including a lead-lined drinking water cooler.

"(c) CRIMINAL PENALTY.—Any person who knowingly violates the prohibition contained in subsection (b) shall be imprisoned for not more than 5 years, or fined in accordance with title 18 of the United States Code, or both.

102 STAT. 2886

"(d) CIVIL PENALTY.—The Administrator may bring a civil action in the appropriate United States District Court (as determined under the provisions of title 28 of the United States Code) to impose a civil penalty on any person who violates subsection (b). In any such action the court may impose on such person a civil penalty of not more than $5,000 ($50,000 in the case of a second or subsequent violation).

42 USC 300j-24.

"SEC. 1464. LEAD CONTAMINATION IN SCHOOL DRINKING WATER.

"(a) DISTRIBUTION OF DRINKING WATER COOLER LIST.—Within 100 days after the enactment of this section, the Administrator shall distribute to the States a list of each brand and model of drinking water cooler identified and listed by the Administrator under section 1463(a).

Public information.

"(b) GUIDANCE DOCUMENT AND TESTING PROTOCOL.—The Administrator shall publish a guidance document and a testing protocol to assist schools in determining the source and degree of lead contamination in school drinking water supplies and in remedying such contamination. The guidance document shall include guidelines for sample preservation. The guidance document shall also include guidance to assist States, schools, and the general public in ascertaining the levels of lead contamination in drinking water coolers and in taking appropriate action to reduce or eliminate such contamination. The guidance document shall contain a testing protocol for the identification of drinking water coolers which contribute to lead contamination in drinking water. Such document and protocol may be revised, republished and redistributed as the Administrator deems necessary. The Administrator shall distribute the guidance document and testing protocol to the States within 100 days after the enactment of this section.

State and local governments.

"(c) DISSEMINATION TO SCHOOLS, ETC.—Each State shall provide for the dissemination to local educational agencies, private nonprofit elementary or secondary schools and to day care centers of the guidance document and testing protocol published under subsection (b), together with the list of drinking water coolers published under section 1463(a).

"(d) REMEDIAL ACTION PROGRAM.—

State and local governments.

"(1) TESTING AND REMEDYING LEAD CONTAMINATION.—Within 9 months after the enactment of this section, each State shall establish a program, consistent with this section, to assist local educational agencies in testing for, and remedying, lead contamination in drinking water from coolers and from other sources of lead contamination at schools under the jurisdiction of such agencies.

"(2) PUBLIC AVAILABILITY.—A copy of the results of any testing under paragraph (1) shall be available in the administrative offices of the local educational agency for inspection by the public, including teachers, other school personnel, and parents. The local educational agency shall notify parent, teacher, and employee organizations of the availability of such testing results.

"(3) COOLERS.—In the case of drinking water coolers, such program shall include measures for the reduction or elimination of lead contamination from those water coolers which are not lead free and which are located in schools. Such measures shall be adequate to ensure that within 15 months after

102 STAT. 2887

the enactment of this subsection all such water coolers in schools under the jurisdiction of such agencies are repaired, replaced, permanently removed, or rendered inoperable unless the cooler is tested and found (within the limits of testing accuracy) not to contribute lead to drinking water.

"SEC. 1465. FEDERAL ASSISTANCE FOR STATE PROGRAMS REGARDING LEAD CONTAMINATION IN SCHOOL DRINKING WATER. 42 USC 300j-25.

"(a) SCHOOL DRINKING WATER PROGRAMS.—The Administrator shall make grants to States to establish and carry out State programs under section 1464 to assist local educational agencies in testing for, and remedying, lead contamination in drinking water from drinking water coolers and from other sources of lead contamination at schools under the jurisdiction of such agencies. Such grants may be used by States to reimburse local educational agencies for expenses incurred after the enactment of this section for such testing and remedial action.

"(b) LIMITS.—Each grant under this section shall be used as by the State for testing water coolers in accordance with section 1464, for testing for lead contamination in other drinking water supplies under section 1464, or for remedial action under State programs under section 1464. Not more than 5 percent of the grant may be used for program administration.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not more than $30,000,000 for fiscal year 1989, $30,000,000 for fiscal year 1990, and $30,000,000 for fiscal year 1991.".

SEC. 3. LEAD POISONING PREVENTION PROGRAMS.

The Public Health Service Act is amended by adding the following new section after section 317:

"SEC. 317A. LEAD POISONING PREVENTION. 42 USC 247b-1.

"(a) GRANTS TO STATES.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States and agencies of units of local governments for the initiation and expansion of community programs designed to (1) screen infants and children for elevated blood lead levels, (2) assure referral for treatment of, and environmental intervention for, infants and children with such blood lead levels, and (3) provide education about childhood lead poisoning. In making grants under this paragraph, the Secretary shall give priority to applications for programs which will serve areas with a high incidence of elevated blood lead levels in infants and children. Children and youth.

"(b) GRANT APPLICATIONS.—(1) No grant may be made under subsection (a), unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and shall be submitted in such manner as the Secretary shall prescribe and shall include each of the following:

"(A) A complete description of the program which is to be provided by or through the applicant.

"(B) Assurances satisfactory to the Secretary that the program to be provided under the grant applied for will include educational programs designed to communicate to parents, educators, and local health officials the significance and prevalence of lead poisoning in infants and children which the program is designed to detect and prevent.

102 STAT. 2888

"(C) Assurances satisfactory to the Secretary that the applicant will report on a quarterly basis the number of infants and children screened for elevated blood lead levels, the number of infants and children who were found to have elevated blood lead levels, the number and type of medical referrals made for such infants and children, the outcome of such referrals, and other information to measure program effectiveness as required under paragraph (2). Children and youth.

"(D) Assurances satisfactory to the Secretary that the applicant will make such reports respecting the program involved as the Secretary may require.

"(E) Such other information as the Secretary may prescribe.

"(2) The Secretary shall prepare and submit a report to the Committee on Energy and Commerce of the United States House of Reports.

Representatives and to the Committee on Labor and Human Resources of the United States Senate not later than one year after the enactment of this section, and annually thereafter, on the effectiveness during the period reported on of the programs assisted under grants under subsection (a).

"(c) MAINTENANCE OF EFFORT.—No grant may be made under subsection (a) unless the Secretary determines that there is satisfactory assurance that Federal funds made available under such a grant for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program for which the grant is to be made and will in no event supplant such State, local, and other non-Federal funds.

"(d) COORDINATION.—No grant may be made under subsection (a) unless the Secretary determines that there will be coordination between the recipient of the grant and activities within the State in which the grantee is located under titles V and XIX of the Social Security Act relating to lead poisoning prevention.

"(e) METHOD AND AMOUNT OF PAYMENT.—The Secretary shall determine the amount of a grant made under subsection (a). Payments under such grants may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants. Not more than 10 percent of any grant may be obligated for administrative costs.

"(f) SUPPLIES, EQUIPMENT, AND EMPLOYEE DETAIL.—The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies or equipment furnished the grant recipient, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

102 STAT. 2889

Public information.

"(g) RECORDS.—Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(h) AUDIT AND EXAMINATION OF RECORDS.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of a grant under subsection (a), that are pertinent to such grant.

"(i) INDIAN TRIBES.—For purposes of this section, the term 'units of local government' includes Indian tribes.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not more than $20,000,000 for fiscal year 1989, $22,000,000 for fiscal year 1990, and $24,000,000 for fiscal year 1991.".

SEC. 4. CERTIFICATION OF TESTING LABORATORIES. 42 USC 300j-26.

The Administrator of the Environmental Protection Agency shall assure that programs for the certification of testing laboratories which test drinking water supplies for lead contamination certify only those laboratories which provide reliable accurate testing. The Administrator (or the State in the case of a State to which certification authority is delegated under this subsection) shall publish and make available to the public upon request the list of laboratories certified under this subsection. Public information.

SEC. 5. CONFORMING AMENDMENT. 42 USC 300j-4.

Section 1445 of the Safe Drinking Water Act (title XIV of the Public Health Service Act) is amended by adding the following new subsection at the end thereof:

"(f) INFORMATION REGARDING DRINKING WATER COOLERS.—The Administrator may utilize the authorities of this section for purposes of part F. Any person who manufactures, imports, sells, or distributes drinking water coolers in interstate commerce shall be treated as a supplier of water for purposes of applying the provisions of this section in the case of persons subject to part F.". Business and industry.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 4939:

HOUSE REPORTS: No. 100-1041 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 5, considered and passed House.
Oct. 14, considered and passed Senate.

Public Law 100-582 — 102 STAT. 2950
100th Congress

An Act

To amend the Solid Waste Disposal Act to require the Administrator of the Environmental Protection Agency to promulgate regulations on the management of infectious waste.

Nov. 1, 1988
[H.R. 3515]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medical Waste Tracking Act of 1988". Medical Waste Tracking Act of 1988. 42 USC 6901 note. Public health and safety. State and local governments.

SEC. 2. TRACKING OF MEDICAL WASTE.

(a) AMENDMENT OF SOLID WASTE DISPOSAL ACT.—The Solid Waste Disposal Act is amended by adding the following new subtitle at the end:

"Subtitle J—Demonstration Medical Waste Tracking Program

"SEC. 11001. SCOPE OF DEMONSTRATION PROGRAM FOR MEDICAL WASTE. 42 USC 6992.

"(a) COVERED STATES.—The States within the demonstration program established under this subtitle for tracking medical wastes shall be New York, New Jersey, Connecticut, the States contiguous to the Great Lakes and any State included in the program through the petition procedure described in subsection (c), except for any of such States in which the Governor notifies the Administrator under subsection (b) that such State shall not be covered by the program. State listing.

"(b) OPT OUT.—(1) If the Governor of any State covered under subsection (a) which is not contiguous to the Atlantic Ocean notifies the Administrator that such State elects not to participate in the demonstration program, the Administrator shall remove such State from the program.

"(2) If the Governor of any other State covered under subsection (a) notifies the Administrator that such State has implemented a medical waste tracking program that is no less stringent than the demonstration program under this subtitle and that such State elects not to participate in the demonstration program, the Administrator shall, if the Administrator determines that such State program is no less stringent than the demonstration program under this subtitle, remove such State from the demonstration program.

Regulations.

"(3) Notifications under paragraphs (1) or (2) shall be submitted to the Administrator no later than 30 days after the promulgation of regulations implementing the demonstration program under this subtitle.

"(c) PETITION IN.—The Governor of any State may petition the Administrator to be included in the demonstration program and the Administrator may, in his discretion, include any such State. Such petition may not be made later than 30 days after promulgation of regulations establishing the demonstration program under this subtitle, and the Administrator shall determine whether to include the State within 30 days after receipt of the State's petition.

102 STAT. 2951

"(d) EXPIRATION OF DEMONSTRATION PROGRAM.—The demonstration program shall expire on the date 24 months after the effective date of the regulations under this subtitle.

42 USC 6992a.

"SEC. 11002. LISTING OF MEDICAL WASTES.

Regulations.

"(a) LIST.—Not later than 6 months after the enactment of this subtitle, the Administrator shall promulgate regulations listing the types of medical waste to be tracked under the demonstration program. Except as provided in subsection (b), such list shall include, but need not be limited to, each of the following types of solid waste:

"(1) Cultures and stocks of infectious agents and associated biologicals, including cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures.

"(2) Pathological wastes, including tissues, organs, and body parts that are removed during surgery or autopsy.

"(3) Waste human blood and products of blood, including serum, plasma, and other blood components.

"(4) Sharps that have been used in patient care or in medical, research, or industrial laboratories, including hypodermic needles, syringes, pasteur pipettes, broken glass, and scalpel blades.

"(5) Contaminated animal carcasses, body parts, and bedding of animals that were exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals.

"(6) Wastes from surgery or autopsy that were in contact with infectious agents, including soiled dressings, sponges, drapes, lavage tubes, drainage sets, underpads, and surgical gloves.

"(7) Laboratory wastes from medical, pathological, pharmaceutical, or other research, commercial, or industrial laboratories that were in contact with infectious agents, including slides and cover slips, disposable gloves, laboratory coats, and aprons.

"(8) Dialysis wastes that were in contact with the blood of patients undergoing hemodialysis, including contaminated disposable equipment and supplies such as tubing, filters, disposable sheets, towels, gloves, aprons, and laboratory coats.

"(9) Discarded medical equipment and parts that were in contact with infectious agents.

"(10) Biological waste and discarded materials contaminated with blood, excretion, excudates or secretion from human beings or animals who are isolated to protect others from communicable diseases.

"(11) Such other waste material that results from the administration of medical care to a patient by a health care provider and is found by the Administrator to pose a threat to human health or the environment.

"(b) EXCLUSIONS FROM LIST.—The Administrator may exclude from the list under this section any categories or items described in paragraphs (6) through (10) of subsection (a) which he determines do not pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

102 STAT. 2952

"SEC. 11003 TRACKING OF MEDICAL WASTE.

42 USC 6992b.

"(a) DEMONSTRATION PROGRAM.—Not later than 6 months after the enactment of this subtitle, the Administrator shall promulgate regulations establishing a program for the tracking of the medical waste listed in section 11002 which is generated in a State subject to the demonstration program. The program shall (1) provide for tracking of the transportation of the waste from the generator to the disposal facility, except that waste that is incinerated need not be tracked after incineration, (2) include a system for providing the generator of the waste with assurance that the waste is received by the disposal facility, (3) use a uniform form for tracking in each of the demonstration States, and (4) include the following requirements:

Regulations.

"(A) A requirement for segregation of the waste at the point of generation where practicable.

"(B) A requirement for placement of the waste in containers that will protect waste handlers and the public from exposure.

"(C) A requirement for appropriate labeling of containers of the waste.

"(b) SMALL QUANTITIES.—In the program under subsection (a), the Administrator may establish an exemption for generators of small quantities of medical waste listed under section 11002, except that the Administrator may not exempt from the program any person who, or facility that, generates 50 pounds or more of such waste in any calendar month.

"(c) ON-SITE INCINERATORS.—Concurrently with the promulgation of regulations under subsection (a), the Administrator shall promulgate a recordkeeping and reporting requirement for any generator in a demonstration State of medical waste listed in section 11002 that (1) incinerates medical waste listed in section 11002 on site and (2) does not track such waste under the regulations promulgated under subsection (a). Such requirement shall require the generator to report to the Administrator on the volume and types of medical waste listed in section 11002 that the generator incinerated on site during the 6 months following the effective date of the requirements of this subsection.

Records.

Reports.

"(d) TYPE OF MEDICAL WASTE AND TYPES OF GENERATORS.—For each of the requirements of this section, the regulations may vary for different types of medical waste and for different types of medical waste generators.

"SEC. 11004. INSPECTIONS.

42 USC 6992c.

"(a) REQUIREMENTS FOR ACCESS.—For purposes of developing or assisting in the development of any regulation or report under this subtitle or enforcing any provision of this subtitle, any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled medical waste shall, upon request of any officer, employee, or representative of the Environmental Protection Agency duly designated by the Administrator, furnish information relating to such waste, including any tracking forms required to be maintained under section 11003, conduct monitoring or testing, and permit such person at all reasonable times to have access to, and to

Records.

copy, all records relating to such waste. For such purposes, such
102 STAT. 2953 officers, employees, or representatives are authorized to—

"(1) enter at reasonable times any establishment or other place where medical wastes are or have been generated, stored, treated, disposed of, or transported from;

"(2) conduct monitoring or testing; and

"(3) inspect and obtain samples from any person of any such wastes and samples of any containers or labeling for such wastes.

"(b) PROCEDURES.—Each inspection under this section shall be commenced and completed with reasonable promptness. If the officer, employee, or representative obtains any samples, prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the sample obtained and, if requested, a portion of each such sample equal in volume or weight to the portion retained if giving such an equal portion is feasible. If any analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge of the premises concerned.

"(c) AVAILABILITY TO PUBLIC.—The provisions of section 3007(b) of this Act shall apply to records, reports, and information obtained under this section in the same manner and to the same extent as such provisions apply to records, reports, and information obtained under section 3007.

42 USC 6992d. "SEC. 11005. ENFORCEMENT.

"(a) COMPLIANCE ORDERS.—

"(1) VIOLATIONS.—Whenever on the basis of any information the Administrator determines that any person has violated, or is in violation of, any requirement or prohibition in effect under this subtitle (including any requirement or prohibition in effect under regulations under this subtitle) (A) the Administrator may issue an order (i) assessing a civil penalty for any past or current violation, (ii) requiring compliance immediately or within a specified time period, or (iii) both, or (B) the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction. Any order issued pursuant to this subsection shall state with reasonable specificity the nature of the violation.

"(2) ORDERS ASSESSING PENALTIES.—Any penalty assessed in an order under this subsection shall not exceed $25,000 per day of noncompliance for each violation of a requirement or prohibition in effect under this subtitle. In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

"(3) PUBLIC HEARING.—Any order issued under this subsection shall become final unless, not later than 30 days after issuance of the order, the persons named therein request a public hearing. Upon such request, the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section, the Administrator may issue subpoenas for the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

"(4) VIOLATION OF COMPLIANCE ORDERS.—In the case of an order under this subsection requiring compliance with any requirement of or regulation under this subtitle, if a violator
102 STAT. 2954 fails to take corrective action within the time specified in an order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance with the order.

"(b) CRIMINAL PENALTIES.—Any person who—

"(1) knowingly violates the requirements of or regulations under this subtitle;

"(2) knowingly omits material information or makes any false material statement or representation in any label, record,

report, or other document filed, maintained, or used for purposes of compliance with this subtitle or regulations thereunder; or

"(3) knowingly generates, stores, treats, transports, disposes of, or otherwise handles any medical waste (whether such activity took place before or takes place after the date of the enactment of this paragraph) and who knowingly destroys, alters, conceals, or fails to file any record, report, or other document required to be maintained or filed for purposes of compliance with this subtitle or regulations thereunder

shall, upon conviction, be subject to a fine of not more than $50,000 for each day of violation, or imprisonment not to exceed 2 years (5 years in the case of a violation of paragraph (1)). If the conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment under the respective paragraph shall be doubled with respect to both fine and imprisonment.

"(c) KNOWING ENDANGERMENT.—Any person who knowingly violates any provision of subsection (b) who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall upon conviction be subject to a fine of not more than $250,000 or imprisonment for not more than 15 years, or both. A defendant that is an organization shall, upon conviction under this subsection, be subject to a fine of not more than $1,000,000. The terms of this paragraph shall be interpreted in accordance with the rules provided under section 3008(f) of this Act.

"(d) CIVIL PENALTIES.—Any person who violates any requirement of or regulation under this subtitle shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day of such violation shall, for purposes of this section, constitute a separate violation.

"(e) CIVIL PENALTY POLICY.—Civil penalties assessed by the United States or by the States under this subtitle shall be assessed in accordance with the Administra 's 'RCRA Civil Penalty Policy', as such policy may be amended from time to time.

"SEC. 11006. FEDERAL FACILITIES.

42 USC 6992e. Law enforcement and crime.

"(a) IN GENERAL.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government in a demonstration State (1) having jurisdiction over any solid waste management facility or disposal site at which medical waste is disposed of or otherwise handled, or (2) engaged in any activity resulting, or which may result, in the disposal, management, or handling of medical waste shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting control and abatement of medical waste disposal and management in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders, civil, criminal, and administrative penalties, and other sanctions, including injunctive relief, fines, and imprisonment. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of any such order, penalty, or other sanction. For purposes of enforcing any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order, or civil, criminal, administrative penalty, or other sanction), against any such department, agency, or instrumentality, the United States hereby expressly waives any immunity otherwise applicable to the United States. The President may exempt any department, agency, or instrumentality in the executive branch

from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

President of U.S. Reports.

"(b) DEFINITION OF PERSON.—For purposes of this Act, the term 'person' shall be treated as including each department, agency, and instrumentality of the United States.

42 USC 6992f.

"SEC. 11007. RELATIONSHIP TO STATE LAW.

"(a) STATE INSPECTIONS AND ENFORCEMENT.—A State may conduct inspections under 11004 and take enforcement actions under section 11005 against any person, including any person who has imported medical waste into a State in violation of the requirements of, or regulations under, this subtitle, to the same extent as the Administrator. At the time a State initiates an enforcement action under section 11005 against any person, the State shall notify the Administrator in writing.

"(b) RETENTION OF STATE AUTHORITY.—Nothing in this subtitle shall—

"(1) preempt any State or local law; or

"(2) except as provided in subsection (c), otherwise affect any State or local law or the authority of any State or local government to adopt or enforce any State or local law.

"(c) STATE FORMS.—Any State or local law which requires submission of a tracking form from any person subject to this subtitle shall require that the form be identical in content and format to the form required under section 11003, except that a State may require the submission of other tracking information which is supplemental to the information required on the form required under section 11003 through additional sheets or such other means as the State deems appropriate.

102 STAT. 2956

42 USC 6992g.

"SEC. 11008. REPORT TO CONGRESS.

"(a) FINAL REPORT.—Not later than 3 months after the expiration of the demonstration program, the Administrator shall report to Congress on the following topics:

"(1) The types, number, and size of generators of medical waste (including small quantity generators) in the United States, the types and amounts of medical waste generated, and the on-site and off-site methods currently used to handle, store, transport, treat, and dispose of the medical waste, including the extent to which such waste is disposed of in sewer systems.

"(2) The present or potential threat to human health and the environment posed by medical waste or the incineration thereof.

"(3) The present and potential costs (A) to local economies, persons, and the environment from the improper handling, storage, transportation, treatment or disposal of medical waste and (B) to generators, transporters, and treatment, storage, and disposal facilities from regulations establishing requirements for tracking, handling, storage, transportation, treatment, and disposal of medical waste.

"(4)(A) The success of the demonstration program established under this subtitle in tracking medical waste,

"(B) changes in incineration and storage practices attributable to the demonstration program, and

"(C) other available and potentially available methods for tracking medical waste and their advantages and disadvan-

tages, including the advantages and disadvantages of extending tracking requirements to (i) rural areas and (ii) small quantity generators.

"(5) Available and potentially available methods for handling, storing, transporting, and disposing of medical waste and their advantages and disadvantages.

"(6) Available and potentially available methods for treating medical waste, including the methods of incineration, sterilization, chemical treatment, and grinding, and their advantages, including their ability to render medical waste noninfectious or less infectious, and unrecognizable and otherwise protect human health and the environment, and disadvantages.

"(7) Factors affecting the effectiveness of the treatment methods identified in subsection (a)(5), including quality control and quality assurance procedures, maintenance procedures, and operator training.

"(8) Existing State and local controls on the handling, storage, transportation, treatment, and disposal of medical waste, including the enforcement and regulatory supervision thereof.

"(9) The appropriateness of using any existing State requirements or the requirements contained in subtitle C as nationwide requirements to monitor and control medical waste.

"(10) The appropriateness of the penalties provided in section 11006 for insuring compliance with the requirements of this subtitle, including a review of the level of penalties imposed under this subtitle.

"(11)(A) The effect of excluding households and small quantity generators from any regulations governing the handling, storage, transportation, treatment, and disposal of medical waste, and

102 STAT. 2957

"(B) potential guidelines for the handling, storage, treatment, and disposal of medical waste by households and small quantity generators.

"(12) Available and potentially available methods for the reuse or reduction of the volume of medical waste generated.

"(b) INTERIM REPORTS.—The Administrator shall submit two interim reports to Congress on the topics listed in subsection (a). The interim reports shall contain the information on the topics available to the Administrator at the time of submission. One interim report shall be due 9 months after enactment of this subtitle and one shall be due 12 months after the effective date of regulations under this subtitle.

"(c) CONSULTATION.—In preparing the reports under this section, the Administrator shall consult with appropriate State and local agencies.

"SEC. 11009. HEALTH IMPACTS REPORT.

42 USC 6992h.

"Within 24 months after the enactment of this section, the Administrator of the Agency for Toxic Substances and Disease Registry shall prepare for Congress a report on the health effects of medical waste, including each of the following—

"(1) A description of the potential for infection or injury from the segregation, handling, storage, treatment, or disposal of medical wastes.

"(2) An estimate of the number of people injured or infected annually by sharps, and the nature and seriousness of those injuries or infections.

"(3) An estimate of the number of people infected annually by other means related to waste segregation, handling, storage, treatment, or disposal, and the nature and seriousness of those infections.

"(4) For diseases possibly spread by medical waste, including Acquired Immune Deficiency Syndrome and hepatitis B, an estimate of what percentage of the total number of cases nationally may be traceable to medical wastes.

42 USC 6992i.

"SEC. 11010. GENERAL PROVISIONS.

"(a) CONSULTATION.—(1) In promulgating regulations under this subtitle, the Administrator shall consult with the affected States and may consult with other interested parties.

Canada.

"(2) The Administrator shall also consult with the International Joint Commission to determine how to monitor the disposal of medical waste emanating from Canada.

"(b) PUBLIC COMMENT.—In the case of the regulations required by this subtitle to be promulgated within 9 months after the enactment of this subtitle, the Administrator may promulgate such regulations in interim final form without prior opportunity for public comment, but the Administrator shall provide an opportunity for public comment on the interim final rule. The promulgation of such regulations shall not be subject to the Paperwork Reduction Act of 1980.

"(c) RELATIONSHIP TO SUBTITLE C.—Nothing in this subtitle shall affect the authority of the Administrator to regulate medical waste, including medical waste listed under section 11002, under subtitle C of this Act.

42 USC 6992j.

"SEC. 11011. EFFECTIVE DATE.

"The regulations promulgated under this subtitle shall take effect within 90 days after promulgation, except that, at the time of promulgation, the Administrator may provide for a shorter period prior to the effective date if he finds the regulated community does not need 90 days to come into compliance.

42 USC 6992k.

"SEC. 11012. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Administrator such sums as may be necessary for each of the fiscal years 1989 through 1991 for purposes of carrying out activities under this subtitle.".

(b) TABLE OF CONTENTS.—The table of contents for the Solid Waste Disposal Act is amended by inserting the following after the items relating to subtitle I:

"Subtitle J—Demonstration Medical Waste Tracking Program

"Sec. 11001. Scope of demonstration program for medical waste.
"Sec. 11002. Listing of medical wastes.
"Sec. 11003. Tracking of medical waste.
"Sec. 11004. Inspections.
"Sec. 11005. Enforcement.
"Sec. 11006. Federal facilities.
"Sec. 11007. Relationship to State law.
"Sec. 11008. Report to Congress.
"Sec. 11009. Health impact report.
"Sec. 11010. General provisions.
"Sec. 11011. Effective date.
"Sec. 11012. Authorization of appropriations.".

SEC. 3. DEFINITION.

Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) is amended by adding the following at the end thereof:

"(40) Except as otherwise provided in this paragraph, the term 'medical waste' means any solid waste which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals. Such term does not include any hazardous waste identified or listed under subtitle C or any household waste as defined in regulations under subtitle C.".

SEC. 4. EPA LAW ENFORCEMENT POWERS.

(a) CONFERRAL OF LAW ENFORCEMENT POWERS.—Chapter 203 of title 18, United States Code, is amended by adding at the end the following:

"§ 3063. Powers of Environmental Protection Agency

"(a) Upon designation by the Administrator of the Environmental Protection Agency, any law enforcement officer of the Environ-

mental Protection Agency with responsibility for the investigation of criminal violations of a law administered by the Environmental Protection Agency, may—

"(1) carry firearms;

"(2) execute and serve any warrant or other processes issued under the authority of the United States; and

"(3) make arrests without warrant for—

"(A) any offense against the United States committed in such officer's presence; or

"(B) any felony offense against the United States if such officer has probable cause to believe that the person to be arrested has committed or is committing that felony offense.

"(b) The powers granted under subsection (a) of this section shall be exercised in accordance with guidelines approved by the Attorney General.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by adding at the end the following:

"3063. Powers of Environmental Protection Agency.".

Approved November 1, 1988.

LEGISLATIVE HISTORY—H.R. 3515:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 4, 6, considered and passed House.
Oct. 7, considered and passed Senate, amended.
Oct. 12, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Nov. 1, Presidential statement.

Public Law 100-610
100th Congress

An Act

To amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to provide for indemnification and hold harmless agreements.

Nov. 5, 1988
[H.R. 4517]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Outer Continental Shelf Operations Indemnification Clarification Act of 1988.
43 USC 1801 note.

TITLE I

SECTION 1. SHORT TITLE.

This Act may be cited as the "Outer Continental Shelf Operations Indemnification Clarification Act of 1988".

SEC. 2. INDEMNITY AGREEMENTS.

Section 305 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1802 et seq.) is amended by adding at the end the following new subsection:

43 USC 1815.

"(e) Any owner or operator of an offshore facility may enter into an indemnity, hold harmless, or similar agreement with any person holding a lease on the Outer Continental Shelf with respect to any liability arising under this title. Notwithstanding the provision of this subsection, any such indemnity, hold harmless, or similar agreement shall not relieve such owner, operator, or person from liability arising under this title. Nothing in this subsection shall be construed to alter or in any way affect the financial responsibility requirements imposed under this section.".

SEC. 3. GUARANTOR'S LIABILITY.

Section 305 of the Outer Continental Shelf Lands Act Amendments of 1978 is amended by redesignating subsection (c) as (c)(1) and adding a new subsection (c)(2) to read as follows:

"(2) The total liability of any guarantor in a direct action suit brought under this section shall be limited to the aggregate amount of the monetary limits of the policy of insurance, guarantee, surety bond, letter of credit, or similar instrument obtained from the guarantor by the person subject to liability. Nothing in this subsection shall be construed, interpreted or applied to diminish the liability of any person under this Act or other applicable law.".

Birds. Conservation. Fish and fishing. Research and development. 16 USC 668dd note.

TITLE II—PETTAQUAMSCUTT COVE NATIONAL WILDLIFE REFUGE

SEC. 201. FINDINGS.

The Congress finds that—

(1) Pettaquamscutt Cove, and the associated tidal marshes and mudflats, and dividing the towns of Narragansett and South Kingstown, Rhode Island, has been identified as the most important black duck migration and wintering habitat in Rhode Island, in accordance with the objectives of the North American Waterfowl Plan;

102 STAT. 3177

(2) Pettaquamscutt Cove provides important migration and wintering habitat for various other species of waterfowl, valuable feeding habitat for shorebirds, terns, gulls, and wading birds, and habitat for many species of finfish and shellfish;

(3) Pettaquamscutt Cove is home to several State-listed Rare and Uncommon animal and plant species; and

(4) designation of this area as a National Wildlife Refuge would significantly aid in the conservation of these fish and wildlife resources.

SEC. 202. PURPOSES.

The purposes for which the Pettaquamscutt Cove National Wildlife Refuge is established and shall be managed include—

(1) to protect and enhance the populations of black ducks and other waterfowl, geese, shorebirds, terns, wading birds, and other wildlife using the refuge;

(2) to provide for the conservation and management of fish and wildlife within the refuge;

(3) to fulfill the international treaty obligations of the United States respecting fish and wildlife; and

(4) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation.

SEC. 203. DEFINITIONS.

For the purposes of this Act—

(1) the term "refuge" means the Pettaquamscutt Cove National Wildlife Refuge;

(2) the term "Secretary" means the Secretary of the Interior; and

(3) the term "selection area" means the lands and waters of the Pettaquamscutt Watershed in the State of Rhode Island.

SEC. 204. ESTABLISHMENT OF REFUGE.

(a)(1) Within one year after the effective date of this Act the Secretary shall designate approximately 600 acres of land and waters within the selection area which the Secretary considers appropriate for the refuge.

Federal Register, publication.

(2) After making such designation, the Secretary shall publish in the Federal Register, and in newspapers of local circulation, a notice of availability of a detailed map depicting the boundaries of the land so designated, which map shall be on file and available for inspection in the office of the Director of the United States Fish and

Wildlife Service, Department of the Interior, and in appropriate offices of the United States Fish and Wildlife Service in the State of Rhode Island.

(b) BOUNDARY REVISIONS.—The Secretary may make such minor revisions in the boundaries designated under this section as may be appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

(c) ACQUISITION.—After determination of the boundaries of the refuge in accordance with the provisions of subsection (a) of this section, the Secretary is authorized to acquire the lands and waters, or interests therein, within the boundary of the refuge.

(d) ESTABLISHMENT.—The Secretary shall establish the National Wildlife Refuge, by publication of a notice to that effect in the Federal Register and publications of local circulation, whenever sufficient property has been acquired within the boundary of the refuge to constitute an area that can be effectively managed as a National Wildlife Refuge.

Federal Register, publication.

102 STAT. 3178

SEC. 205. ADMINISTRATION.

The Secretary shall administer all lands, waters, and interests therein acquired under this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1968 (16 U.S.C. 668dd-668ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of recreation opportunities, and interpretive education, as he deems appropriate to carry out the purposes of this Act.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior—

(a) such funds as may be necessary for the acquisition of lands and waters designated in section 4(a)(1); and

(b) such funds as may be necessary for the development, operation and maintenance of the refuge.

SEC. 207. EFFECTIVE DATE.

This Act shall take effect on the date of its enactment.

Approved November 5, 1988.

LEGISLATIVE HISTORY—H.R. 4517:

HOUSE REPORTS: No. 100-710 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 20, considered and passed House.
Oct. 14, considered and passed Senate, amended.
Oct. 19, House concurred in Senate amendment.

Public Law 100-676
100th Congress

102 STAT. 4012

An Act

Nov. 17, 1988
[S. 2100]

To provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Water Resources Development Act of 1988.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

33 USC 2201 note.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1988".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Secretary defined.
Sec. 3. Project authorizations.
Sec. 4. Project modifications.
Sec. 5. Comments on certain changes in operations of reservoirs.
Sec. 6. Operation of certain projects to enhance recreation.
Sec. 7. Collaborative research and development.
Sec. 8. Innovative technology.
Sec. 9. Technical assistance demonstration program.
Sec. 10. Periodic statements.
Sec. 11. Simulation model of South Central Florida hydrologic ecosystem.
Sec. 12. Section 215 reimbursement limitation per project.
Sec. 13. Additional 10 percent payment over 30 years for construction of harbors.
Sec. 14. Compliance with flood plain management and insurance programs.
Sec. 15. Federal repayment district.
Sec. 16. Abandoned and wrecked vessels.
Sec. 17. Flood warning and response system.
Sec. 18. Small boat harbor, Buffalo Harbor, New York.
Sec. 19. Lakeport Lake, California.
Sec. 20. Sacramento, California.
Sec. 21. Mississippi River headwaters reservoirs.
Sec. 22. Hearding Island inlet, Duluth Harbor, Minnesota.
Sec. 23. Louisiana water supply.
Sec. 24. Contained spoil disposal facilities in the Great Lakes and their connecting channels.
Sec. 25. South pier to Charlevoix Harbor, Charlevoix, Michigan.
Sec. 26. Coyote and Berryessa Creeks, California.
Sec. 27. Land conveyance, Whittier Narrows Dam, Los Angeles County, California.
Sec. 28. Land conveyance, Ottawa, Illinois.
Sec. 29. Land transfer in Whitman County, Washington.
Sec. 30. Lesage/Greenbottom Swamp, West Virginia.
Sec. 31. Portuguese and Bucana Rivers, Puerto Rico.
Sec. 32. Alternatives to mud dump for disposal of dredged material.
Sec. 33. Missouri River between Fort Peck Dam, Montana, and Gavins Point Dam, South Dakota and Nebraska.
Sec. 34. New York Harbor drift removal project.
Sec. 35. Placement of dredged beach quality sand on beaches.
Sec. 36. Restoration, Ventura to Pierpont Beach, California.
Sec. 37. William G. Stone lock tolls.
Sec. 38. Declaration of nonnavigability for portions of the Delaware River.
Sec. 39. Declaration of nonnavigability for portions of Coney Island Creek and Gravesend Bay, New York.
Sec. 40. Extension of modified water delivery schedules, Everglades National Park.
Sec. 41. Period of environmental demonstration program.
Sec. 42. Federal hydroelectric power modernization study.
Sec. 43. Water quality effects of hydroelectric facilities.
Sec. 44. GAO review of civil works program.
Sec. 45. Des Plaines River wetlands demonstration project authorization.
Sec. 46. Kissimmee River, Florida.
Sec. 47. Water resources studies.
Sec. 48. Division laboratory.
Sec. 49. Water resources management planning service for the Hudson River Basin.
Sec. 50. Technical resource service, Red River Basin, Minnesota and North Dakota.
Sec. 51. Correction of descriptions.
Sec. 52. Project deauthorizations.
Sec. 53. Namings.
Sec. 54. Declaration of nonnavigability of bodies of water in Ridgefield, New Jersey.

102 STAT. 4013

33 USC 2201 note.

SEC. 2. SECRETARY DEFINED.

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

SEC. 3. PROJECT AUTHORIZATIONS.

(a) AUTHORIZATION OF CONSTRUCTION.—Except as otherwise provided in this subsection, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection:

(1) LOWER MISSION CREEK, SANTA BARBARA, CALIFORNIA.—The project for flood control, Lower Mission Creek, Santa Barbara, California: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $10,420,000, with an estimated first Federal cost of $5,909,000, and an estimated first non-Federal cost of $4,511,000.

(2) FT. PIERCE HARBOR, FLORIDA.—The project for navigation, Ft. Pierce Harbor, Florida: Report of the Chief of Engineers,

dated December 14, 1987, at a total cost of $6,742,000, with an estimated first Federal cost of $4,319,000, and an estimated first non-Federal cost of $2,423,000.

(3) NASSAU COUNTY, FLORIDA.—The project for beach erosion control, Nassau County (Amelia Island), Florida: Report of the Chief of Engineers, dated May 19, 1986, at a total cost of $5,753,000, with an estimated first Federal cost of $4,619,000, and an estimated first non-Federal cost of $1,134,000.

(4) PORT SUTTON CHANNEL, FLORIDA.—The project for navigation, Port Sutton Channel, Florida: Report of the Chief of Engineers, dated March 28, 1988, at a total cost of $2,670,000, with an estimated first Federal cost of $1,155,000, and an estimated first non-Federal cost of $1,515,000; except that construction of such project may not be initiated until the Secretary determines that such project serves more than one beneficiary.

(5) CHICAGOLAND UNDERFLOW PLAN, ILLINOIS.—The project for flood control, Chicagoiand Underflow Plan, Illinois: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $419,000,000, with an estimated first Federal cost of $314,250,000, and an estimated first non-Federal cost of $104,750,000.

(6) LOWER OHIO RIVER, ILLINOIS AND KENTUCKY.—The project for navigation, Lower Ohio River, Locks and Dams 52 and 53, Illinois and Kentucky: Report of the Chief of Engineers, dated August 20, 1986, at a total cost of $775,000,000, with a first Federal cost of $775,000,000, and with the costs of construction of the project to be paid one-half from amounts appropriated from the general fund of the Treasury and one-half from amounts appropriated from the Inland Waterways Trust Fund. 102 STAT. 4014

(7) HAZARD, KENTUCKY.—The project for flood control, Hazard, Kentucky: Report of the Chief of Engineers, dated October 30, 1986, at a total cost of $7,450,000, with an estimated first Federal cost of $5,590,000 and an estimated first non-Federal cost of $1,860,000.

(8) MISSISSIPPI AND LOUISIANA ESTUARINE AREAS, MISSISSIPPI AND LOUISIANA.—The project for environmental enhancement, Mississippi and Louisiana Estuarine Areas, Mississippi and Louisiana: Report of the Chief of Engineers, dated May 19, 1986, at a total cost of $59,300,000.

(9) WOLF AND JORDAN RIVERS, MISSISSIPPI.—The project for navigation, Wolf and Jordan Rivers and Bayou Portage, Mississippi: Report of the Chief of Engineers, dated June 10, 1987, at a total cost of $2,290,000, with an estimated first Federal cost of $1,620,000 and an estimated first non-Federal cost of $670,000.

(10) TRUCKEE MEADOWS, NEVADA.—The project for flood control, Truckee Meadows, Nevada: Report of the Chief of Engineers, dated July 25, 1986, at a total cost of $78,400,000, with an estimated first Federal cost of $39,200,000 and an estimated first non-Federal cost of $39,200,000; except that the Secretary is authorized to carry out fish and wildlife enhancement as a purpose of such project, including fish and wildlife enhancement measures described in the District Engineer's Report, dated July 1985, at an additional total cost of $4,140,000.

(11) WEST COLUMBUS, OHIO.—The project for flood control, Scioto River, West Columbus, Ohio: Report of the Chief of Engineers, dated February 9, 1988, at a total cost of $31,562,000, with an estimated first Federal cost of $23,671,000, and an estimated first non-Federal cost of $7,891,000.

(12) DELAWARE RIVER, PENNSYLVANIA AND DELAWARE.—The project for navigation, Delaware River, Philadelphia to Wilmington, Pennsylvania and Delaware: Report of the Chief of Engineers, dated June 15, 1986, at a total cost of $17,200,000, with an estimated first Federal cost of $9,100,000 and an estimated first non-Federal cost of $8,100,000.

(13) CYPRESS CREEK, TEXAS.—The project for flood control, Cypress Creek, Texas: Report of the Chief of Engineers, dated

October 12, 1987, at a total project cost of $114,200,000, with an estimated first Federal cost of $84,900,000 and an estimated first non-Federal cost of $29,300,000.

(14) FALFURRIAS, TEXAS.—The project for flood control, Falfurrias, Texas: Report of the Chief of Engineers, dated March 15, 1988, at a total cost of $31,800,000, with an estimated first Federal cost of $15,900,000, and an estimated first non-Federal cost of $15,900,000.

(15) GUADALUPE RIVER, TEXAS.—The project for navigation, Guadalupe River to Victoria, Texas: Report of the Chief of Engineers, dated September 1, 1987, at a total cost of $23,900,000, with an estimated first Federal cost of $15,100,000, and an estimated first non-Federal cost of $8,800,000.

(16) MCGRATH CREEK, WICHITA FALLS, TEXAS.—The project for flood control, McGrath Creek, Wichita Falls, Texas: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $9,100,000, with an estimated first Federal cost of $6,800,000 and an estimated first non-Federal cost of $2,300,000.

33 USC 2280.

(b) MAXIMUM COST OF PROJECTS.—Section 902 of the Water Resources Development Act of 1986 (100 Stat. 4183) is amended—

102 STAT. 4015

(1) by striking out "in this Act, or an amendment made by this Act, for a project" and inserting in lieu thereof "with respect to a project for water resources development and conservation and related purposes authorized to be carried out by the Secretary in this Act or in a law enacted after the date of the enactment of this Act, including the Water Resources Development Act of 1988, or in an amendment made by this Act or any later law with respect to such a project";

(2) in paragraph (1) by inserting ", in any later law," after "in this Act" and by inserting "or any later law" after "by this Act";

(3) in paragraph (2)(A) by inserting "or any later law" after "of this Act"; and

(4) in paragraph (2)(B) by inserting "or any later law" after "by this Act".

SEC. 4. PROJECT MODIFICATIONS.

(a) BEAVER LAKE, ARKANSAS.—

(1) AMENDMENTS.—Section 843 of the Water Resources Development Act of 1986 (100 Stat. 4176–4177) is amended—

(A) by inserting "and the Chief of the Soil Conservation Service" after "the Environmental Protection Agency"; and

(B) by inserting "including best management practices," before "at a total cost".

(2) CONTINUATION OF PLANNING AND DESIGN.—Using funds made available for the Beaver Lake project, Arkansas, pursuant to the Energy and Water Development Appropriations Act, 1989, the Secretary is directed to continue overall planning and design for such project, including the development of implementation plans for individual parcels of land within the drainage basin which contribute to water quality degradation and impairment of water supply uses at Beaver Lake.

Flood control.

(b) WEST MEMPHIS AND VICINITY, ARKANSAS.—The project for flood control, West Memphis and vicinity, Arkansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4112) is modified to provide that non-Federal cooperation for such project may be provided by levee districts, drainage districts, or any unit of a State, county, or local government.

(c) KING HARBOR, REDONDO BEACH, CALIFORNIA.—Section 809 of the Water Resources Development Act of 1986 (100 Stat. 4168) is amended by striking out the last sentence and inserting in lieu thereof the following: "The non-Federal share of the cost of work undertaken pursuant to this section shall be in accordance with title I of this Act.".

(d) LOS ANGELES AND LONG BEACH HARBORS, SAN PEDRO BAY, CALIFORNIA.—The navigation project for Los Angeles and Long

Beach Harbors, San Pedro Bay, California, authorized by section 201 of the Water Resources Development Act of 1986 (100 Stat. 4091), is modified to provide that, if non-Federal interests carry out any work associated with such project which is later recommended by the Chief of Engineers and approved by the Secretary, the Secretary may credit such non-Federal interests an amount equal to the Federal share of the cost of such work, without interest. In analyzing costs and benefits of such project, the Secretary shall consider the costs and benefits produced by any work which is carried out under the preceding sentence by non-Federal interests and which the Secretary determines is compatible with such project. The feasibility report for such project shall include consideration and evaluation of the following proposed project features: Long Beach Main Channel, Channel to Los Angeles Pier 300, Channels to Los Angeles Pier 400, Long Beach Pier "K" Channel, and Los Angeles Crude Transshipment Terminal Channel.

Reports.

102 STAT. 4016

(e) LOS ANGELES RIVER, CALIFORNIA.—The Secretary is directed to perform maintenance dredging of the existing Federal project at the mouth of the Los Angeles River, California, to the authorized depth of 20 feet for the purpose of maintaining the flood control basin and navigation safety.

(f) SUNSET HARBOR, CALIFORNIA.—The demonstration project at Sunset Harbor, California, authorized by section 1119(b) of the Water Resources Development Act of 1986 (100 Stat. 4238), is modified to include wetland restoration as a purpose of such demonstration project. All costs allocated to such wetland restoration shall be paid by non-Federal interests in accordance with section 916 of such Act.

(g) INDIANA SHORELINE EROSION, INDIANA.—The undesignated paragraph of section 501(a) of the Water Resources Development Act of 1986 under the heading "INDIANA SHORELINE, INDIANA" (100 Stat. 4135) is amended by striking out "with an estimated first Federal cost of $15,000,000 and an estimated first non-Federal cost of $5,000,000." and inserting in lieu thereof "with the Federal share of the cost of this project to be determined in accordance with title I of this Act.".

(h) STUMPY LAKE, LOUISIANA.—The project for mitigation of fish and wildlife losses Red River Waterway, Louisiana, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4142), is modified to authorize the Secretary to obtain, on a priority basis, up to 300 acres in the area of Stumpy Lake as part of such project. Such modification shall not increase the total authorization for land acquisition for such project.

Fish and fishing.
Wildlife.

(i) ANNAPOLIS HARBOR, MARYLAND.—The project for navigation, Annapolis Harbor, Maryland, is modified to authorize and direct the Secretary to realign by nonstructural, nondredging measures the channel in such project, as determined necessary by the Secretary, for the purpose of promoting more efficient mooring operations in Annapolis Harbor.

(j) DEAL ISLAND, MARYLAND.—The Secretary may pay the remaining cost for the navigation project for Deal Island, Maryland (Lower Thorofare), authorized under section 107 of the River and Harbor Act of 1960, estimated at $277,000, plus any interest due the construction contractor.

(k) REDWOOD RIVER, MARSHALL, MINNESOTA.—The project for flood control, Redwood River, Marshall, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum, dated April 1987, at a total cost of $6,900,000, with an estimated first Federal cost of $5,000,000 and an estimated first non-Federal cost of $1,900,000.

(l) ROOT RIVER BASIN, MINNESOTA.—The undesignated paragraph of section 401(a) of the Water Resources Development Act of 1986 under the heading "ROOT RIVER BASIN, MINNESOTA" (100 Stat. 4117) is

amended by adding at the end thereof the following new sentence: "Nothing in this paragraph precludes the Secretary from carrying out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).".

102 STAT. 4017

(m) ROSEAU RIVER, MINNESOTA.—The project for flood control, Roseau River, Minnesota, authorized by the Flood Control Act of 1965, is modified to authorize and direct the Secretary to construct as authorized, or to construct under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), the 6-mile flood control levee in the vicinity of Duxby, Minnesota, beginning at a point approximately 2 miles upstream, substantially in accordance with the recommendations of the Chief of Engineers contained in House Document Numbered 282, 89th Congress, at an estimated total cost of $360,000, and with an estimated first Federal cost of $270,000 and an estimated first non-Federal cost of $90,000. In analyzing costs and benefits of such project, the Secretary shall consider the costs and benefits produced by any work which is carried out under such section 205 and which the Secretary determines is compatible with such project.

Waste disposal.

(n) GULFPORT HARBOR, MISSISSIPPI.—

(1) IN GENERAL.—The project for navigation, Gulfport Harbor, Mississippi, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4094–4095) is modified to authorize the Secretary to dispose, in accordance with all provisions of Federal law, of dredged material—

(A) from construction, operation, and maintenance of such project in open waters of the Gulf of Mexico;

(B) from construction of such project by thin layer disposal in the Mississippi Sound under the demonstration program carried out under paragraph (2);

(C) from operation and maintenance of such project by disposal in the Mississippi Sound under a plan developed by the Secretary and approved by the Administrator of the Environmental Protection Agency if the Secretary, after consultation with the study team established under paragraph (3), determines that the report submitted under paragraph (2)(H) indicates that there will be no unacceptable adverse environmental impacts from such disposal; and

(D) from construction, operation, and maintenance of such project as fill in connection with a pier extension project for such Harbor carried out under a permit issued before, on, or after the date of the enactment of this Act under section 404 of the Federal Water Pollution Control Act.

(2) DEMONSTRATION PROGRAM.—

(A) PURPOSES.—During construction of the Gulfport Harbor navigation project, the Secretary shall carry out a demonstration program for the purpose of evaluating the costs and benefits of thin layer disposal in the Mississippi Sound of dredged material from construction of harbor improvements, including any operation and maintenance materials that may be removed during construction, and for determining whether or not there are unacceptable adverse effects from such disposal—

(i) on human health or welfare, including but not limited to plankton, fish, shellfish, wildlife, shorelines, and beaches;

102 STAT. 4018

(ii) on marine life (including the transfer, concentration, and dispersal of pollutants or their byproducts through biological, physical, and chemical processes), changes in marine ecosystem diversity, productivity, and stability, and species and community population changes;

(iii) on esthetic, recreation, and economic values; and

(iv) on alternative uses of oceans, such as mineral exploitation and scientific study.

In addition, the Secretary shall determine through such program the persistence and permanence of any such ad-

verse effects and methods of mitigating any such adverse effects.

(B) PLANNING.—Within 4 months after the date of the enactment of the Act, the Secretary, in consultation with the study team established under paragraph (3), shall develop a plan for carrying out the demonstration program under this paragraph. Such plan shall, at a minimum, establish predisposal monitoring requirements, thin layer disposal locations, the amounts of dredged material necessary for carrying out such demonstration program, the duration of thin layer disposal under such demonstration program, the compatibility of the receiving habitat with thin layer dredged material disposal, requirements for minimizing demonstration program impacts, the depth of thin layer disposal, and the scope of the post disposal monitoring.

(C) LIMITATIONS ON MATERIALS FROM PROJECT.—The Secretary in carrying out the demonstration program under this paragraph shall use suitable material removed during construction of the Gulfport Harbor navigation project. The amount of material used shall be of sufficient quantity to determine the effects of thin layer disposal in near shore areas of (i) dredged materials from construction of harbor improvements, and (ii) any materials from operation and maintenance of harbor improvements dredged during the period of such construction; except that the total amount of material to be used shall be limited to the lesser of 3,000,000 cubic yards of dredged material or the amount determined under the plan developed under subparagraph (B).

(D) CONSULTATION REQUIREMENT.—In conducting the demonstration program under this paragraph, the Secretary shall consult the study team established under paragraph (3).

(E) POST DISPOSAL MONITORING.—The demonstration program under this paragraph shall include monitoring of the near shore areas at which dredged material is disposed of under such program during the period determined under the plan developed under subparagraph (B).

(F) APPLICABILITY OF FEDERAL LAW.—The demonstration program under this paragraph shall be carried out in accordance with all applicable provisions of Federal law, including section 404(c) of the Federal Water Pollution Control Act.

(G) COST SHARING.—The demonstration program carried out under this paragraph shall be subject to cost sharing under title I of the Water Resources Development Act of 1986. All costs of such program, other than dredging and disposal of dredged material costs, shall not be included for purposes of calculating the economic costs and benefits of the navigation project for Gulfport Harbor, Mississippi. 102 STAT. 4019

(H) REPORT TO CONGRESS AND EPA.—Within 1 year after the date of completion of the demonstration program under this paragraph, the Secretary, after consultation with the study team established under paragraph (3), shall transmit to Congress and to the Administrator of the Environmental Protection Agency a report on the results of such demonstration program together with recommendations concerning thin layer disposal in near shore areas of dredged material from construction, operation, and maintenance of future navigation projects.

(I) APPROVAL OR DISAPPROVAL OF RECOMMENDATIONS.—Not later than 30 days after the date of receipt of the report and recommendations under subparagraph (H), the Administrator of the Environmental Protection Agency shall approve or disapprove the recommendations and shall notify Congress and the Secretary of such approval or disapproval.

If the Administrator disapproves the recommendations, not later than 30 days after the date of such disapproval, the Administrator shall notify Congress and the Secretary of the reasons for such disapproval together with recommendations for modifications which could be made to the recommendations to take into account such reasons. If the Administrator fails to approve or disapprove the recommendations transmitted under subparagraph (H) within the 30-day period, the recommendations shall be deemed to be approved.

(3) STUDY TEAM.—The Secretary shall establish a study team to assist the Secretary in planning, carrying out, monitoring, and reporting on the demonstration program and the results of such program under this subsection. Such team shall be appointed by the Secretary and shall consist of representatives of the Corps of Engineers, the Environmental Protection Agency, interested Federal and State resource agencies, and the local sponsor of the demonstration program. Members of the study team who are not officers or employees of the United States shall serve without compensation. Members of the study team who are officers or employees of the United States shall receive no additional pay by reason of their service on the study team.

(4) THIN LAYER DISPOSAL DEFINED.—For purposes of this subsection, the term "thin layer disposal" means the deliberate placement of a 6- to 12-inch layer of dredged material in a specific bottom area. In no case shall such layer exceed a maximum of 12 inches of thickness.

Flood control.

(o) BRUSH CREEK AND TRIBUTARIES, MISSOURI AND KANSAS.—The project for flood control, Brush Creek and tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118), is modified to authorize the Secretary to provide to the non-Federal interests providing local cooperation for such project services (including the provision of services by contract) in the design and construction of upstream and downstream non-Federal extensions to such project—

(1) if the non-Federal interests provide, in advance of obligation of Federal funds for such design and construction, amounts

102 STAT. 4020

sufficient to cover all costs of such services;

(2) if, prior to construction of such extensions, the non-Federal interests obtain all necessary Federal and State permits; and

(3) if the non-Federal interests agree to hold and save the United States free from damages due to the planning, design, construction, operation, or maintenance of such extensions.

Construction costs, operation, and maintenance of such extensions shall be a non-Federal responsibility and shall not be considered part of the Brush Creek flood control project for any purpose.

Indians.
Historic preservation.

(p) LIBBY DAM, MONTANA.—The project for Libby Dam, Lake Koocanusa Reservoir, Montana, is modified (1) to authorize the Secretary, in consultation with the Secretary of Agriculture, to undertake measures to alleviate low water impact on existing facilities at such project, including provision of low water access to Lake Koocanusa, Montana, and provision of additional planned public recreation sites along the reservoir, and (2) to direct the Secretary to protect Indian archaeological sites which are exposed during the course of operations of such project, at an estimated total cost of $750,000. The Secretary shall coordinate with the Kootenai Tribes in monitoring exposed archaeological sites to prevent pillaging, in preserving artifacts onsite, and in facilitating curation at the tribal curation center in Pablo Montana when onsite preservation is not warranted.

(q) SEA BRIGHT TO MONMOUTH BEACH, NEW JERSEY.—Section 854 of the Water Resources Development Act of 1986 (100 Stat. 4179–4180) is amended to read as follows:

"SEC. 854. SANDY HOOK TO BARNEGAT INLET, NEW JERSEY.

"(a) Subject to section 903(a) of this Act, the project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, authorized by the River and Harbor Act of 1958, is modified to provide that the first Federal construction increment of the Ocean Township to Sandy Hook reach of such project shall consist of a berm of approximately 100 feet at Sea Bright and Monmouth Beach extending to and including a feeder beach in the vicinity of Long Beach substantially in accordance with the plan recommended in the draft General Design Memorandum entitled 'Atlantic Coast of New Jersey, Sandy Hook to Barnegat Inlet, Beach Erosion Control Project, Section 1—Sea Bright to Ocean Township, New Jersey', dated May 1988, at a total initial cost for such increment of $91,000,000 and an annual cost of $1,200,000 for periodic beach nourishment over the life of such increment.

"(b) The non-Federal share of the costs of construction and maintenance of the increment referred to in subsection (a) shall be—

"(1) for the first $40,000,000 in costs, the amounts expended by non-Federal interests for reconstruction of the seawall at Sea Bright and Monmouth Beach, New Jersey; and

"(2) for costs in excess of $40,000,000, a non-Federal share which is in accordance with title I of this Act.

"(c) Before initiation of construction of any increment of the project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, non-Federal interests shall agree to provide public access to the beach for which such increment of the project is authorized in accordance with all requirements of State law and regulations.".

(r) WYOMING VALLEY, PENNSYLVANIA.—The project for flood control, Wyoming Valley, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 1424), is modified to authorize the Secretary to study the feasibility of constructing an inflatable dam on the Susquehanna River in the vicinity of Wilkes Barre, Pennsylvania.

Flood control.
Dams.

102 STAT. 4021

(s) BLAIR AND SITCUM WATERWAYS, WASHINGTON.—The undesignated paragraph of section 202(a) of the Water Resources Development Act of 1986 under the heading "BLAIR AND SITCUM WATERWAYS, TACOMA HARBOR, WASHINGTON" (100 Stat. 4096) is amended by striking out "$38,200,000" and all that follows through "$12,000,000;" and inserting in lieu thereof "$51,000,000;".

(t) WYNOOCHEE LAKE, WASHINGTON.—

(1) IN GENERAL.—To demonstrate the feasibility of non-Federal operation, maintenance, repair, and rehabilitation of a Federal multi-purpose water resources project, the project for Wynoochee Lake, Wynoochee River, Washington, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1193), is modified to authorize the Secretary to permit the city of Aberdeen, Washington, to operate, maintain, repair, and rehabilitate the project (hereinafter in this subsection referred to as "OMR&R") after September 30, 1988.

(2) LIMITATIONS ON OMR&R.—OMR&R by the city of Aberdeen shall be—

(A) subject to such terms and conditions as the Secretary shall establish by regulation to ensure that OMR&R is consistent with the project's authorized purposes, including fish and wildlife mitigation; and

Regulations.

(B) consistent with the long-term value and viability of the project's physical facilities.

In issuing such regulations, the Secretary shall evaluate the effect of such regulations on the project costs payable by the city.

(3) CONDITIONS.—OMR&R by the city of Aberdeen under this subsection shall be subject to the following conditions:

(A) Title to real and personal property of the project shall remain in the United States, and the city shall not impair such title.

Real property.
Gifts and property.

(B) The city shall hold and save the United States free from any damages which result from OMR&R by the city, except for damages due to the fault or negligence of the United States or its contractors.

(C) Upon due cause as determined by the Secretary and after notice to the city, the Secretary may resume OMR&R and the city shall be responsible to pay the percentage of the OMR&R costs of the project incurred thereafter and related to water supply storage as described in the original project contract.

(D) The Secretary shall modify the project contract to forgive future OMR&R payment obligations of the city to the extent that the city is performing project OMR&R in accordance with this subsection and the regulations issued under this subsection.

(E) The Secretary shall transfer to the city responsibility for OMR&R of the project in a safe and cost-effective manner.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the implementation of this subsection.

102 STAT. 4022

33 USC 2312.

SEC. 5. COMMENTS ON CERTAIN CHANGES IN OPERATIONS OF RESERVOIRS.

Before the Secretary may make changes in the operation of any reservoir which will result in or require a reallocation of storage space in such reservoir or will significantly affect any project purpose, the Secretary shall provide an opportunity for public review and comment.

SEC. 6. OPERATION OF CERTAIN PROJECTS TO ENHANCE RECREATION.

(a) ENHANCEMENT OF RECREATION.—The Secretary shall ensure, to the extent compatible with other project purposes, that each water resources project referred to in this subsection is operated in such manner as will protect and enhance recreation associated with such project. The Secretary is authorized to manage project lands at each such project in such manner as will improve opportunities for recreation at the project. Such activities shall be included as authorized project purposes of each project. Nothing in this subsection shall be construed to affect the authority or discretion of the Secretary with respect to carrying out other authorized project purposes or to comply with other requirements or obligations of the Secretary which are legally binding as of the date of the enactment of this Act. The provisions of this subsection shall apply to the following projects:

State listing.

(1) Beechfork Lake, West Virginia.
(2) Bluestone Lake, West Virginia.
(3) East Lynn Lake, West Virginia.
(4) Francis E. Walter Dam, Pennsylvania.
(5) Jennings Randolph Lake (Bloomington Dam), Maryland and West Virgina.
(6) R.D. Bailey Lake, West Virginia.
(7) Savage River Dam, Maryland.
(8) Youghiogheny River Lake, Pennsylvania and Maryland.
(9) Summersville Lake, West Virginia.
(10) Sutton Lake, West Virginia.
(11) Stonewall Jackson Lake, West Virginia.

(b) RECREATION DEFINED.—As used in this section, in addition to recreation on lands associated with the project, the term "recreation" includes (but shall not be limited to) downstream whitewater recreation which is dependent on project operations, recreational fishing, and boating on water at the project.

SEC. 7. COLLABORATIVE RESEARCH AND DEVELOPMENT. 33 USC 2313.

(a) IN GENERAL.—For the purpose of improving the state of engineering and construction in the United States and consistent with the mission of the Army Corps of Engineers, the Secretary is authorized to utilize Army Corps of Engineers laboratories and research centers to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local government, colleges and universities, and corporations, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of any of the several States of the United States or the District of Columbia.

(b) ADMINISTRATIVE PROVISIONS.—In carrying out this section, the Secretary may consider the recommendations of a non-Federal entity in identifying appropriate research or development projects and may enter into a cooperative research and development agreement, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a); except that in such agreement, the Secretary may agree to provide not more than 50 percent of the cost of any research or development project selected by the Secretary under this section. Not less than 5 percent of the non-Federal entity's share of the cost of any such project shall be paid in cash. Contracts. 102 STAT. 4023

(c) APPLICABILITY OF OTHER LAWS.—The research, development, or utilization of any technology pursuant to an agreement under subsection (b), including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701-3714).

(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes of this section, there is authorized to be appropriated to the Secretary of the Army civil works funds $3,000,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, $5,000,000 for fiscal year 1991, and $6,000,000 for each fiscal year thereafter.

(e) ADDITIONAL FUNDING.—Notwithstanding the third proviso under the heading "GENERAL INVESTIGATIONS" of title I of the Energy and Water Development Appropriations Act, 1989 (102 Stat. 857), an additional $3,000,000 of the funds appropriated under such heading shall be available to the Secretary for obligation to carry out the purposes of this section in fiscal year 1989.

SEC. 8. INNOVATIVE TECHNOLOGY. 33 USC 2314.

(a) USE.—The Secretary shall, whenever feasible, seek to promote long- and short-term cost savings, increased efficiency, reliability, and safety, and improved environmental results through the use of innovative technology in all phases of water resources development projects and programs under the Secretary's jurisdiction. To further this goal, Congress encourages the Secretary to—

(1) use procurement and contracting procedures that encourage innovative project design, construction, rehabilitation, repair, and operation and maintenance technologies;

(2) frequently review technical and design criteria to remove or modify unnecessary impediments to innovation;

(3) increase timely exchange of technical information with universities, private companies, government agencies, and individuals;

(4) foster design competition; and

(5) encourage greater participation by non-Federal project sponsors in the development and implementation of projects.

(b) REPORTS.—Within 2 years after the date of the enactment of this Act, and thereafter at the Secretary's discretion, the Secretary shall provide Congress with a report on the results of, and recommendations to increase, the development and use of innovative technology in water resources development projects under the Secretary's jurisdiction. Such report shall also contain information regarding innovative technologies which the Secretary has consid-

ered and rejected for use in water resources development projects under the Secretary's jurisdiction.

(c) INNOVATIVE TECHNOLOGY DEFINED.—For the purpose of this
102 STAT. 4024 section, the term "innovative technology" means designs, materials, or methods which the Secretary determines are previously undemonstrated or are too new to be considered standard practice.

33 USC 2314 note.

SEC. 9. TECHNICAL ASSISTANCE DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary is authorized to undertake a demonstration program for a 2-year period, which shall begin within 6 months after the date of the enactment of this Act, to provide technical assistance, on a nonexclusive basis, to any United States firm which is competing for, or has been awarded, a contract for the planning, design, or construction of a project outside the United States, if the United States firm provides, in advance of fiscal obligation by the United States, funds to cover all costs of such assistance. In determining whether to provide such assistance, the Secretary shall consider the effects on the Department of the Army civil works mission, personnel, and facilities. Prior to the Secretary providing such assistance, a United States firm must—

(1) certify to the Secretary that such assistance is not otherwise reasonably and expeditiously available; and

(2) agree to hold and save the United States free from damages due to the planning, design, construction, operation, or maintenance of the project.

(b) FEDERAL EMPLOYEES' INVENTIONS.—As to an invention made or conceived by a Federal employee while providing assistance pursuant to this section, if the Secretary decides not to retain all rights in such invention, the Secretary may—

Patents and trademarks.

(1) grant or agree to grant in advance, to a United States firm, a patent license or assignment, or an option thereto, retaining a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the United States and such other rights as the Secretary deems appropriate; or

(2) waive, subject to reservation by the United States of a nonexclusive, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the United States, in advance, in whole, or in part, any right which the United States may have to such invention.

(c) PROTECTION OF CONFIDENTIAL INFORMATION.—Information of a confidential nature, such as proprietary or classified information, provided to a United States firm pursuant to this section shall be protected. Such information may be released by a United States firm only after written approval by the Secretary.

(d) REPORT.—Within 6 months after the end of the demonstration program authorized by this section, the Secretary shall submit to Congress a report on the results of such demonstration program.

(e) DEFINITIONS.—For purposes of this section—

(1) UNITED STATES FIRM.—The term "United States firm" means a corporation, partnership, limited partnership, or sole proprietorship that is incorporated or established under the laws of any of the United States with its principal place of business in the United States.

(2) UNITED STATES.—The term "United States", when used in a geographical sense, means the several States of the United States and the District of Columbia.

33 USC 2315.

SEC. 10. PERIODIC STATEMENTS.

Upon receipt of a request from a non-Federal sponsor of a water
102 STAT. 4025 resources development project under construction by the Secretary, the Secretary shall provide such sponsor with periodic statements of project expenditures. Such statements shall include an estimate of all Federal and non-Federal funds expended by the Secretary, including overhead expenditures, the purpose for expenditures, and a schedule of anticipated expenditures during the remaining period

of construction. Statements shall be provided to the sponsor at intervals of no greater than 6 months.

SEC. 11. SIMULATION MODEL OF SOUTH CENTRAL FLORIDA HYDROLOGIC ECOSYSTEM.

(a) IN GENERAL.—The Secretary, in cooperation with affected Federal, State, and local agencies and other interested persons, may develop and operate a simulation model of the central and southern Florida hydrologic ecosystem for use in predicting the effects—

(1) of modifications to the flood control project for central and southern Florida, authorized by the Flood Control Act of 1948, Flood control.

(2) of changes in the operation of such project, and

(3) of other human activities conducted in the vicinity of such ecosystem which individually or in the aggregate will significantly affect the ecology of such ecosystem,

on the flow, characteristics, quality, and quantity of surface and ground water in such ecosystem and on plants and wildlife within such ecosystem. Such model shall be capable of producing information which is applicable for use in evaluating the impact of issuance of proposed permits under section 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), commonly known as the River and Harbors Appropriation Act of 1899, and under section 404 of the Federal Water Pollution Control Act.

(b) AVAILABILITY TO STATE AND LOCAL AGENCIES.—The Secretary shall allow Federal, State, and local agencies to use, on a reimbursable basis, the simulation model developed under this section.

(c) COST SHARING.—The Federal share of the cost of developing and operating the simulation model under this section shall be 75 percent.

SEC. 12. SECTION 215 REIMBURSEMENT LIMITATION PER PROJECT.

Section 215(a) of the Flood Control Act of 1968 (42 U.S.C. 1962d-5a(a)) is amended by inserting after "$3,000,000" the following: "or 1 percent of the total project cost, whichever is greater; except that the amount of actual Federal reimbursement, including reductions in contributions, for such project may not exceed $5,000,000 in any fiscal year.".

SEC. 13. ADDITIONAL 10 PERCENT PAYMENT OVER 30 YEARS FOR CONSTRUCTION OF HARBORS.

(a) RELOCATION COSTS.—Section 101(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(a)) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) ADDITIONAL 10 PERCENT PAYMENT OVER 30 YEARS.—The non-Federal interests for a project to which paragraph (1) applies shall pay an additional 10 percent of the cost of the general navigation features of the project in cash over a period not to exceed 30 years, at an interest rate determined pursuant to section 106. The value of lands, easements, rights-of-way, relocations, and dredged material disposal areas provided under paragraph (3) and the costs of relocations borne by the non-Federal interests under paragraph (4) shall be credited toward the payment required under this paragraph.". 102 STAT. 4026

(b) RETROACTIVE EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on November 17, 1986. 33 USC 2211 note.

SEC. 14. COMPLIANCE WITH FLOOD PLAIN MANAGEMENT AND INSURANCE PROGRAMS.

Section 402 of the Water Resources Development Act of 1986 (33 U.S.C. 701b–12) is amended by inserting "or any project for hurricane or storm damage reduction" after "local flood protection".

SEC. 15. FEDERAL REPAYMENT DISTRICT.

Section 916(a) of the Water Resources Development Act of 1986 (33 U.S.C 2291) is amended by striking out "include the power to

collect" and all that follows through the period at the end of the last sentence and inserting in lieu thereof "have the power to recover benefits through any cost-recovery approach that is consistent with State law and satisfies the applicable cost-recovery requirement under subsection (b).".

SEC. 16. ABANDONED AND WRECKED VESSELS.

Section 1115 of the Water Resources Development Act of 1986 (100 Stat. 4235) is amended by striking out the last period and inserting in lieu thereof the following: ": *Provided*, That, in furtherance of the work authorized by paragraph (3) hereof, and conditioned on successful removal of the A. Regina, the Secretary of the Army is hereby authorized to transfer upon such conditions as he shall deem fit the title to a Delong Pier Jack-Up Barge Type A, serial number BPA6814, directly to any entity, including any private corporation to be used to assist in the removal of the wreck of the said A. Regina. Procedures otherwise governing the disposal of government property, shall not apply to the above authorized transfer of title. The foregoing actions shall be at no cost to the United States, and shall constitute full compliance by the Secretary of the Army with the requirement of paragraph (3) hereof.".

SEC. 17. FLOOD WARNING AND RESPONSE SYSTEM.

Pennsylvania.

(a) PROJECT.—The Secretary, in cooperation with other Federal agencies and the Susquehanna River Basin Commission, is authorized to design and implement a comprehensive flood warning and response system to serve communities and flood prone areas along Juniata River and tributaries in the State of Pennsylvania consistent with the cost sharing policies of the Water Resources Development Act of 1986.

(b) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to carry out this section $2,000,000 for fiscal years beginning after September 30, 1988.

SEC. 18. SMALL BOAT HARBOR, BUFFALO HARBOR, NEW YORK.

The Secretary may undertake such emergency repairs as the Secretary determines necessary to preserve the existing dike at the Small Boat Harbor, Buffalo Harbor, New York, at a total cost of $2,000,000, except that the Federal share may not exceed $1,000,000.

SEC. 19. LAKEPORT LAKE, CALIFORNIA.

(a) PROJECT REAUTHORIZATION.—Subject to section 1001(a) of the Water Resources Development Act of 1986, the project for flood control, Lakeport Lake, California, as authorized by the Flood Control Act of 1965 on the day before the date of the enactment of the Water Resources Development Act of 1986, is authorized.

102 STAT. 4027

(b) REPEAL OF DEAUTHORIZATION.—Section 1003 of the Water Resources Development Act of 1986 (100 Stat. 4222-4223) is repealed.

SEC. 20. SACRAMENTO, CALIFORNIA.

President of U.S.

The President, in submitting his budget for fiscal year 1990, shall include a schedule for completing the feasibility study on Northern California Streams, American River Watershed, as expeditiously as practicable and an estimate of the resources required to meet such schedule.

SEC. 21. MISSISSIPPI RIVER HEADWATERS RESERVOIRS.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Secretary is directed to maintain water levels in the Mississippi River headwaters reservoirs within the following operating limits: Winnibigoshish 1296.94 feet—1303.14 feet; Leech 1293.20 feet—1297.94 feet; Pokegama 1270.42 feet—1276.42 feet; Sandy 1214.31 feet—1218.31 feet; Pine 1227.32 feet—1234.82 feet; and Gull 1192.75 feet—1194.75 feet. Such water levels shall be measured using the National Geodetic Vertical Datum.

(b) EXCEPTION.—The Secretary may operate the headwaters reservoirs below the minimum or above the maximum water levels established in subsection (a) in accordance with a contingency plan

which the Secretary develops after consulting with the Governor of Minnesota and affected landowners and commercial and recreational users. The Secretary shall transmit such plan to Congress within 6 months after the date of the enactment of this Act. The Secretary shall report to Congress at least 14 days prior to operating any such headwaters reservoir below the minimum or above the maximum water level limits specified in subsection (a). Reports.

SEC. 22. HEARDING ISLAND INLET, DULUTH HARBOR, MINNESOTA.

The Secretary is authorized to dredge the Hearding Island Inlet, Duluth Harbor, Minnesota, for the purpose of increasing water circulation and reducing stagnant water conditions, at a total cost of $500,000.

SEC. 23. LOUISIANA WATER SUPPLY.

The Secretary is directed to review periodically the water supply problems related to drought which may be experienced at the Bayou Lafourche water supply reservoir in Louisiana and to respond as appropriate under the authority granted by section 5 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (55 Stat. 650; 33 U.S.C. 701n).

SEC. 24. CONTAINED SPOIL DISPOSAL FACILITIES IN THE GREAT LAKES AND THEIR CONNECTING CHANNELS.

(a) PERIOD FOR DEPOSITING DREDGED MATERIALS.—Section 123 of the River and Harbor Act of 1970 (33 U.S.C. 1293a) is amended by adding at the end thereof the following new subsection:

"(j) PERIOD FOR DEPOSITING DREDGED MATERIALS.—The Secretary of the Army, acting through the Chief of Engineers, is authorized to continue to deposit dredged materials into a contained spoil disposal facility constructed under this section until the Secretary determines that such facility is no longer needed for such purpose or that such facility is completely full.". 102 STAT. 4028

(b) STUDY AND MONITORING PROGRAM.—Such section is further amended by adding at the end thereof the following new subsection:

"(k) STUDY AND MONITORING PROGRAM.—

"(1) STUDY.—The Secretary of the Army, acting through the Chief of Engineers, shall conduct a study of the materials disposed of in contained spoil disposal facilities constructed under this section for the purpose of determining whether or not toxic pollutants are present in such facilities and for the purpose of determining the concentration levels of each of such pollutants in such facilities.

"(2) REPORT.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

"(3) INSPECTION AND MONITORING PROGRAM.—The Secretary shall conduct a program to inspect and monitor contained spoil disposal facilities constructed under this section for the purpose of determining whether or not toxic pollutants are leaking from such facilities. Hazardous materials. Pollution.

"(4) TOXIC POLLUTANT DEFINED.—For purposes of this subsection, the term 'toxic pollutant' means those toxic pollutants referred to in sections 301(b)(2)(C) and 301(b)(2)(D) of the Federal Water Pollution Control Act and such other pollutants as the Secretary, in consultation with the Administrator of the Environmental Protection Agency, determines are appropriate based on their effects on human health and the environment.".

SEC. 25. SOUTH PIER TO CHARLEVOIX HARBOR, CHARLEVOIX, MICHIGAN.

The Secretary shall take such action as may be necessary to restore recreational uses established prior to May 1, 1988, or provide comparable recreational uses at the South Pier to Charlevoix Recreation.

Harbor project, Charlevoix, Michigan, in order to mitigate any adverse impact on recreational uses resulting from reconstruction of the South Pier. Costs incurred by the Secretary to carry out this section shall be allocated among authorized project purposes in accordance with applicable cost allocation procedures and shall be subject to cost sharing or reimbursement to the same extent as other project costs are shared or reimbursed.

SEC. 26. COYOTE AND BERRYESSA CREEKS, CALIFORNIA.

Reports.
Flood control.

The Secretary is directed to include in the feasibility report for the project for flood control, Coyote and Berryessa Creeks, California: Report of the Board of Engineers for Rivers and Harbors, dated May 11, 1988, recommendations for reimbursement of local interests for work undertaken after the date of the enactment of this Act which is integral to the Federal project as recommended in the feasibility study. Such reimbursement shall not exceed $3,000,000 and shall be made at such time as the federally funded work is carried out.

Real property.

SEC. 27. LAND CONVEYANCE, WHITTIER NARROWS DAM, LOS ANGELES COUNTY, CALIFORNIA.

(a) AUTHORITY TO CONVEY.—Subject to the provisions of this subsection, the Secretary may convey to the city of South El Monte, California, approximately 7.778 acres of real property, together with improvements thereon, located within the Whittier Narrows Flood Control Basin, south of the Pomona Freeway (Highway 60) and east of Santa Anita Avenue, in the city of South El Monte, California.

102 STAT. 4029

Gifts and property.

(b) CONSIDERATION.—In consideration for the conveyance authorized by subsection (a), the Secretary may accept real property in the Los Angeles area or cash, or both. The value of the consideration for the conveyance may not be less than the fair market value of the property conveyed by the United States, as determined by the Secretary. Any funds received by the Secretary under this section shall be deposited into the general fund of the Treasury.

(c) CONDITIONS.—The Secretary may make the conveyance described in subsection (a) only if—

Flood control.

(1) the city of South El Monte, California, grants the United States a perpetual easement that enables the Federal Government to carry out necessary flood control activities with respect to such real property;

(2) such city agrees to use suitable property located directly adjacent to the Whittier Narrows Park, which will be acquired by such city through an exchange for such real property, for parking in connection with recreational activities in the Whittier Narrows Recreational Area, as the Secretary considers appropriate; and

(3) the Secretary determines that the Secretary does not need fee simple title to such real property for operation of the project.

(d) ADDITIONAL TERMS.—The Secretary may impose such additional terms and conditions on the conveyance authorized by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(e) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the city of South El Monte, California.

SEC. 28. LAND CONVEYANCE, OTTAWA, ILLINOIS.

(a) IN GENERAL.—Subject to the provisions of this section, the Secretary shall convey to the city of Ottawa, Illinois, by quitclaim deed any right, title, and interest of the United States to approximately 5.3 acres of land located at the junction of the Fox and Illinois Rivers in such city.

Claims.

(b) TERMS AND CONDITIONS.—The conveyance by the United States under this section shall be subject to the condition that the city of

Ottawa, Illinois, its successors and assigns, agrees to hold the United States harmless from all claims arising from or through the operations of the lands conveyed by the United States. The Secretary may impose such additional terms and conditions on the conveyance as the Secretary considers appropriate to protect the interests of the United States; except that the Secretary may not impose any term or condition which restricts the use of the lands conveyed by the United States under this section.

(c) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the city of Ottawa, Illinois.

102 STAT. 4030

SEC. 29. LAND TRANSFER IN WHITMAN COUNTY, WASHINGTON.

Wildlife.

(a) EXCHANGE OF LAND.—The Secretary shall exchange approximately 171 acres of land acquired by the United States for the Lower Granite Lock and Dam project, Washington, authorized as part of the navigation project for the Snake River, Oregon, Washington, and Idaho by section 2 of the River and Harbor Act of March 2, 1945 (59 Stat. 21), for a tract of land owned by the Port of Whitman County, Washington, which the Secretary determines is suitable for wildlife mitigation purposes. Such exchange shall be made with regard to the values of the lands being exchanged.

(b) TERMS AND CONDITIONS.—The land of the United States exchanged under subsection (a) shall be subject to a reversionary interest in the United States if such land is used for any purpose other than port or industrial purposes. Such exchange shall also be subject to such other terms, conditions, reservations, and restrictions as the Secretary determines necessary for the development, maintenance, and operation of the Lower Granite Lock and Dam project referred to in subsection (a) and to protect the interests of the United States.

(c) LEGAL DESCRIPTIONS AND SURVEYS.—The exact acreages and legal descriptions of the lands exchanged under subsection (a) shall be determined by such surveys as the Secretary determines are necessary. The cost of such surveys shall be paid by the Port of Whitman County, Washington.

SEC. 30. LESAGE/GREENBOTTOM SWAMP, WEST VIRGINIA.

(a) LIMITATION ON LAND CONVEYANCE.—The Secretary shall not convey title to all or any part of the Lesage/Greenbottom Swamp to the State of West Virginia.

(b) LESAGE/GREENBOTTOM SWAMP DEFINED.—For purposes of this section, the term "Lesage/Greenbottom Swamp" means the land located in Cabell and Mason Counties, West Virginia, acquired or to be acquired by the United States for fish and wildlife mitigation purposes in connection with the Gallipolis Locks and Dam replacement project authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110).

(c) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as affecting the authority of the Secretary to carry out the Gallipolis Locks and Dam replacement project authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110).

SEC. 31. PORTUGUESE AND BUCANA RIVERS, PUERTO RICO.

The Secretary is authorized to pay tuition expenses of suitable, English-taught primary and secondary education in Puerto Rico for the child or children of any Federal employee when such expenses are incurred after the date of the enactment of this Act and while the employee is temporarily residing and employed in Puerto Rico for the construction of the Portuguese and Bucana Rivers, Puerto Rico, project.

SEC. 32. ALTERNATIVES TO MUD DUMP FOR DISPOSAL OF DREDGED MATERIAL.

Section 211 of the Water Resources Development Act of 1986 (100 Stat. 4106; 33 U.S.C. 2239) is amended by redesignating subsections
102 STAT. 4031 (d), (e), (f), and (g), and any references thereto, as subsections (e), (f), (g), and (h), respectively, and by inserting after subsection (c) the following new subsection:

"(d) DESIGNATION PLAN.—Not later than 120 days after the date of the enactment of the Water Resources Development Act of 1988, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives his plan for designating one or more sites under subsection (a). The plan shall specify the actions necessary to comply with subsection (a), the funding requirements associated with these actions, and the dates by which the Administrator expects to complete each of these actions. The plan also shall specify actions which the Administrator may be able to take to expedite the designation of any sites under subsection (a).".

SEC. 33. MISSOURI RIVER BETWEEN FORT PECK DAM, MONTANA, AND GAVINS POINT DAM, SOUTH DAKOTA AND NEBRASKA.

Section 9 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 891), is amended by adding at the end thereof the following new subsection:

"(f) The Secretary of the Army is directed to undertake such measures, including maintenance and rehabilitation of existing structures, which the Secretary determines are needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River between Fort Peck Dam, Montana, and a point 58 miles downstream of Gavins Point Dam, South Dakota, and Nebraska. The cost of such measures may not exceed $3,000,000 per fiscal year. Notwithstanding any other provision of law, the costs of these measures, including the costs of necessary real estate interests and structural features, shall be apportioned among project proposes as a joint-use operation and maintenance expense. In lieu of structural measures, the Secretary may acquire interests in affected areas, as the Secretary deems appropriate, from willing sellers.".

SEC. 34. NEW YORK HARBOR DRIFT REMOVAL PROJECT.

Section 91 of the Water Resources Development Act of 1974 (88 Stat. 39) is amended by striking out "$30,500,000" and inserting in lieu thereof "$6,000,000 annually".

SEC. 35. PLACEMENT OF DREDGED BEACH QUALITY SAND ON BEACHES.

Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) is amended by adding at the end thereof the following
State and local governments. new sentence: "In carrying out this section, the Secretary shall give consideration to the State's schedule for providing its share of funds for placing such sand on the beaches of such State and shall, to the maximum extent practicable, accommodate such schedule.".

SEC. 36. RESTORATION, VENTURA TO PIERPONT BEACH, CALIFORNIA.

The Secretary shall make such emergency repairs as are required to restore groin number 1 of the Ventura to Pierpont Beach erosion control project to its original configuration as authorized pursuant to House Document 87-458, except that the Federal cost shall not exceed $300,000.

102 STAT. 4032

California. SEC. 37. WILLIAM G. STONE LOCK TOLLS.

Section 1150(b) of the Water Resources Development Act of 1986 (100 Stat. 4255) is amended by striking out "Yolo County, California" and inserting in lieu thereof the following: "the city of West Sacramento, California".

Beginning at an interior point formed by the intersection of the following 2 courses and distances: (1) north 14 degrees 46 minutes 39 seconds east, the distance of 802.293 feet northwardly from the northerly side of Reed Street (50 feet wide bearing south 75 degrees 13 minutes 21 seconds east), (2) south 75 degrees 20 minutes 21 seconds east, the distance of 277.764 feet eastwardly from the easterly side of Delaware Avenue (150 feet wide bearing north 14 degrees 39 minutes 39 seconds east); thence extending from said point of beginning north 10 degrees 3 minutes west, the distance of 173.758 feet to a point; thence extending north 14 degrees 52 minutes 4 seconds east, the distance of 180.551 feet to a point; thence extending north 17 degrees 35 minutes 1 second west, the distance of 101.949 feet to a point on the centre line of former Washington Avenue (100 feet wide); thence extending along said former centre line of Washington Avenue, south 75 degrees 13 minutes 21 seconds east, the distance of 35.516 feet to a point; thence extending south 17 degrees 35 minutes 1 second east, the distance of 91.669 feet to a point; thence extending south 14 degrees 52 minutes 4 seconds west, the distance of 182.653 feet to a point; thence extending south 10 degrees 3 minutes east, the distance of 167.104 feet to a point; thence extending south 79 degrees 54 minutes west, the distance of 30.000 feet to the first mentioned point and place of beginning. Area of 30-foot-wide private driveway is 13,465.2 square feet—0.30912 acres.

All that certain lot or piece of ground with the buildings and improvements thereon erected, situate in the first ward of the city of Philadelphia and described according to a Plan of Property by Evans Sparks, Surveyor and Regulator of the Second Survey District, dated February 23, 1988 as follows: Parcel "A".

Beginning at a point on the easterly side of Delaware Avenue (150 feet wide), located northwardly the distance of 1,100 feet 7⅜ inches from the point of intersection of the northerly side of Tasker Street (50 feet wide) and the easterly side of the said Delaware Avenue; thence extending north 14 degrees 39 minutes 39 seconds east along the said easterly side of Delaware Avenue, the distance of 975 feet 1 inch to an angle point; thence continuing along the said easterly side of Delaware Avenue north 14 degrees 35 minutes 09 seconds east, the distance of 50 feet 0 inch to a point on the center line of former Washington Avenue (100 feet wide), stricken from the city plan; thence extending south 75 degrees 14 minutes 21 seconds east along the center line of the said former Washington Avenue, the
102 STAT. 4034 distance of 151 feet 4⅞ inches to a point on the westerly side of a 30-foot-wide driveway easement; thence extending south 17 degrees 35 minutes 01 second east along the said driveway easement, the distance of 102 feet 0 inch to an angle point; thence continuing along the said driveway easement south 14 degrees 52 minutes 04 seconds west, the distance of 180 feet 6⅝ inches to an angle point; thence still continuing along the said driveway easement south 10 degrees 03 minutes 00 seconds east, the distance of 131 feet 7⅛ inches to a point; thence extending south 14 degrees 39 minutes 39 seconds west along a line, the distance of 638 feet 11 inches to a point; thence extending north 75 degrees 14 minutes 21 seconds west, along a line, the distance of 260 feet 1½ inches to a point on the easterly side of said Delaware Avenue, being the first mentioned point and place of beginning.

Containing in area 246,456 square feet or 5.6579 acres.

All that certain lot or piece of ground with the buildings and improvements thereon erected, situate in the first ward of the city of Philadelphia and described according to a Plan of Property by Evans Sparks, Surveyor and Regulator of the Second Survey District, dated February 23, 1988 as follows: Parcel "B".

Beginning at a point on the easterly side of Delaware Avenue (150 feet wide), located northwardly the distance of 1,038 feet 1⅞ inches from the point of intersection of the northerly side of Tasker Street (50 feet wide) and the easterly side of the said Delaware Avenue; thence extending north 14 degrees 39 minutes 39 seconds east along the said easterly side of Delaware Avenue, the distance of 62 feet 5½ inches to a point; thence extending south 75 degrees 14 minutes 21

seconds east along a line, the distance of 260 feet 1½ inches to a point; thence extending north 14 degrees 39 minutes 39 seconds east along a line, the distance of 638 feet 11 inches to a point on the westerly side of a 30 feet wide driveway easement; thence extending south 10 degrees 03 minutes 00 seconds east along the said driveway easement, the distance of 42 feet 2 inches to a point; thence extending north 79 degrees 54 minutes 00 seconds east crossing the said driveway easement, the distance of 146 feet 2½ inches to a point; thence extending north 10 degrees 06 minutes 00 seconds west, the distance of 4 feet 1¼ inches to a point; thence extending north 79 degrees 54 minutes 00 seconds east, the distance of 19 feet 1½ inches to a point; thence extending south 6 degrees 35 minutes 30 seconds east, the distance of 58 feet 4⅝ inches to a point, thence extending south 75 degrees 13 minutes 21 seconds east, crossing the bulkhead line approved by the Secretary of War, September 10, 1940; August 9, 1909, and January 20, 1891, the distance of 690 feet 1⅝ inches to a point on the pierhead line of the Delaware River approved by the Secretary of War, September 10, 1940; August 9, 1909, and January 20, 1891; thence extending along the said pierhead line south 1 degree 32 minutes 57 seconds east, the distance of 386 feet 4⅛ inches to a point; thence continuing along the said pierhead line, south 8 degrees 55 minutes 55.5 seconds east, the distance of 491 feet 11¼ inches to a point on the northerly side of Reed Street (50 feet wide) stricken from city plan and vacated and reserved as a right-of-way for drainage, water main and gas purposes; thence extending along same, north 75 degrees 13 minutes 21 seconds west, recrossing the said bulkhead line and 30-foot-wide driveway easement the distance of 632 feet 1½ inches to a point on the westerly side of said driveway easement; thence extending north 12 degrees 24 minutes 31 seconds west, along said driveway easement, the distance of 136 feet 0¼ inch to a point; thence extending north 14 degrees 50 minutes 59 seconds east, partly along a 25-foot-wide driveway easement, the distance of 21 feet 0⅛ inch to a point; thence extending north 75 degrees 13 minutes 21 seconds west, the distance of 492 feet 11¾ inches to a point; thence extending south 14 degrees 46 minutes 39 seconds west, the distance of 51 feet 3⅛ inches to a point; thence extending north 64 degrees 29 minutes 30 seconds west, the distance of 259 feet 9⅝ inches to the easterly side of said Delaware Avenue, being the first mentioned point and place of beginning. 102 STAT. 4035

Containing in area 785,683 square feet or 18.0368 acres.

(2) MARINA TOWERS AND WORLD TRADE CENTER—PIER 25 NORTH.

All that certain lot or piece of ground situate in the 5th ward, city of Philadelphia, Commonwealth of Pennsylvania, described in accordance with a Plan of Property made for Old City Harbor Associates Developers, by Lawrence J. Cleary, Surveyor and Regulator, Third Survey District dated March 26, 1981 as follows: to wit:

Beginning at a point on the easterly line of Delaware Avenue (150 feet wide) located 27 degrees 52 minutes 00 seconds west, the distance of 119 feet 8⅞ inches from a point of intersection of the easterly line of the said Delaware Avenue with the southerly line of Willow Street (50 feet wide) produced; thence extending along the easterly line of the said Delaware Avenue, the two following courses and distances: (1) north 27 degrees 52 minutes 00 seconds east, the distance of 162 feet 8⅛ inches to an angle point; (2) north 15 degrees 16 minutes 00 seconds east, the distance of 95 feet 5⅜ inches to a point; thence extending south 73 degrees 55 minutes 50 seconds east, the distance of 18 feet 5⅞ inches to a point on the bulkhead line of the Delaware River approved by the Secretary of War September 10, 1940; thence further extending south 73 degrees 55 minutes 50 seconds east, the distance of 515 feet 9⅜ inches to a point on the pierhead line of the Delaware River approved by the Secretary of War September 10, 1940; thence extending the following two courses and distances along the said pierhead line of the Delaware River (approved by the Secretary of War September 10, 1940): (1) south 29 degrees 05 minutes 21 seconds west, the distance of 133 feet 8⅞ inches to an angle point; (2) south 19 degrees 41 minutes 36 seconds west, the distance of 117 feet 2½ inches to a point; thence extending

north 74 degrees 44 minutes 00 seconds west, the distance of 504 feet 10 inches to a point on the said bulkhead line of the Delaware River (approved by the Secretary of War September 10, 1940); thence further extending north 74 degrees 44 minutes 00 seconds west, the distance of 23 feet 10⅝ inches to the first mentioned point and place beginning.

Being parcels number 1 (known as pier 25 north), number 2 and number 3 and containing in total area 130,281.6 square feet.

(3) MARINE TRADE CENTER—PIER 24 NORTH.

Description of a property located on the easterly side of Delaware Avenue. Northwardly from the south house line of Callowhill Street produced (pier numbered 24 north).

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Survey and Plan of Property made November 16, 1985 by Lawrence J. Cleary, Surveyor and Regulator, Third Survey District, and revised March 22, 1988 by him.

Beginning at a point of intersection of the easterly side of Delaware Avenue (150 feet wide) and the south house line of Callowhill Street (formerly 50 feet wide) produced; thence extending north 27 degrees 52 minutes 00 seconds east along the said side of Delaware Avenue, the distance of 340 feet 3 inches to a point; thence extending south 74 degrees 44 minutes 00 seconds east the distance of 23 feet 10⅝ inches to a point on the bulkhead line of the Delaware River approved by the Secretary of War, September 10, 1940; thence extending south 74 degrees 44 minutes 00 seconds east the distance of 528 feet 8⅝ inches to a point on the pierhead line of the Delaware River approved by the Secretary of War, September 10, 1940; thence extending south 19 degrees 41 minutes 36 seconds west along the said pierhead line the distance of 289 feet 9½ inches to a point on the said south house line of Callowhill Street produced; thence extending north 78 degrees 58 minutes 50 seconds west along the south house line of said Callowhill Street produced the distance of 522 feet 8¾ inches to a point on the said bulkhead line; thence continuing along the said south house line of Callowhill Street produced north 78 degrees 58 minutes 50 seconds west the distance of 59 feet 5¼ inches to the first mentioned point and place of beginning.

102 STAT. 4036

Containing in area 171,171 square feet (3.9295 acres).

(4) NATIONAL SUGAR COMPANY "SUGAR HOUSE".

Description and Recital—block 6 north 6 lot 17—all that certain land.

Situate in the 5th ward of the city of Philadelphia, Pennsylvania and more particularly described as follows:

Beginning at a point on the southeasterly side of Penn Street (60 feet wide) which point is measured south 43 degrees 30 minutes west along the said southeasterly side of Penn Street the distance of 282 feet 6 inches from a point formed by an intersection of the said southeasterly side of Penn Street and the southwesterly side of Laurel Street (50 feet wide); thence extending from said point of beginning south 46 degrees 30 minutes east the distance of 738 feet 8½ inches to a point on the Delaware River pierhead line established January 5, 1894, approved by Secretary of War September 10, 1940; thence extending south 48 degrees 13 minutes 7 seconds west along the Delaware River pierhead line the distance of 188 feet 3⅛ inches to a point; thence extending north 46 degrees 30 minutes west partly passing within the bed of a 10-foot-wide alley by deed (which extends northwestwardly to the said southeasterly side of Penn Street) the distance of 723 feet 2⅝ inches to a point on the said southeasterly side of Penn Street; thence extending north 43 degrees 30 minutes east along the said southeasterly side of Penn Street and crossing the bed of the said 10-foot-wide alley by deed the distance of 187 feet 7½ inches to a point, being the first mentioned point and place of beginning.

distance of 385 feet 11½ inches to a point on the northeasterly side of Laurel Street (50 feet wide) produced; thence extending north 46
102 STAT. 4038 degrees 29 minutes 00 seconds west along the northeasterly side of the said Laurel Street produced, the distance of 575 feet 6⅞ inches to a point on the said bulkhead line; thence further extending north 46 degrees 29 minutes 00 seconds west along the northeasterly side of the said Laurel Street, the distance of 190 feet 7 inches to a point on the southeasterly side of Penn Street (60 feet wide); thence extending north 43 degrees 30 minutes 00 seconds east along the southeasterly side of the aforesaid Penn Street, the distance of 543 feet 3¾ inch to an angle point; thence extending north 63 degrees 51 minutes 33 seconds east along the southeasterly side of said Penn Street (50 feet wide), the distance of 240 feet 9 inches to the first mentioned point and place of beginning.

(5) RIVERCENTER.

Beginning at the point of intersection of the northeasterly side of Dyott Street (100 feet wide) with the bulkhead line established by the Secretary of War, September 10, 1940; thence from said point of beginning leaving the side of Dyott Street and extending along the bulkhead line the following five (5) courses and distances—

(1) north 64 degrees 18 minutes 09 seconds east 829 feet 10 inches to a point;

(2) south 48 degrees 30 minutes 57 seconds east 53 feet 5⅝ inches to a point;

(3) north 64 degrees 40 minutes 52 seconds east 936 feet 8⅝ inches to a point;

(4) north 32 degrees 24 minutes 26 seconds west 149 feet 2¼ inches to a point;

(5) north 64 degrees 04 minutes 09 seconds east crossing a 60 foot drainage right-of-way 296 feet 3¾ inches to a point on the southwesterly side of pier #20;

thence extending along said southwesterly side of pier #20 15 feet distant and parallel with the aforementioned drainage right-of-way south 25 degrees 02 minutes 08 seconds east 586 feet 6⅜ inches to a point on the pierhead line established by the Secretary of War, September 10, 1940; thence extending along the pierhead line south 64 degrees 16 minutes 52 seconds west 2,021 feet 10 inches to a point on the northeasterly side of Dyott Street; thence extending along said northeasterly side of Dyott Street north 30 degrees 02 minutes 52 seconds west 494 feet 9⅜ inches to the point and place of beginning.

The Secretary shall make the public interest determination separately for each proposed project, using reasonable discretion, within 150 days after submission of appropriate plans for each proposed project.

(b) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including, but not necessarily limited to, sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the River and Harbors Appropriation Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(c) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section is not bulkheaded or filled or occupied by permanent
102 STAT. 4039 structures, including marina facilities, in accordance with the **requirements set out in subsection (b) of this section, or if work in connection with any activity permitted in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of non-navigability for such area or part thereof shall expire.**

SEC. 39. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF CONEY ISLAND CREEK AND GRAVESEND BAY, NEW YORK. 33 USC 59y.

(a) AREA TO BE DECLARED NON-NAVIGABLE; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portions of Coney Island Creek and Gravesend Bay, New York, described below, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of such Creek and Bay, bounded and described as follows, are declared to be non-navigable waters of the United States:

Beginning at the corner formed by the intersection of the Westerly Line of Cropsey Avenue, and the Northernmost United States Pierhead Line of Coney Island Creek.

Running thence south 12 degrees 41 minutes 03 seconds E and along the westerly line of Cropsey Avenue, 98.72 feet to the northerly channel line as shown on Corps of Engineers Map Numbered F. 250 and on Survey by Rogers and Giollorenzo Numbered 13959 dated October 31, 1986.

Running thence in a westerly direction and along the said northerly channel line the following bearings and distances:

South 48 degrees 59 minutes 27 seconds west, 118.77 feet; south 37 degrees 07 minutes 01 seconds west, 232.00 feet; south 23 degrees 17 minutes 10 seconds west, 430.03 feet; south 31 degrees 25 minutes 46 seconds west, 210.95 feet; south 79 degrees 22 minutes 49 seconds west, 244.18 feet; north 55 degrees 00 minutes 29 seconds west, 183.10 feet; north 41 degrees 47 minutes 04 seconds west, 315.16 feet;

North 41 degrees 17 minutes 43 seconds west, 492.47 feet to the said Pierhead Line; thence north 73 degrees 58 minutes 40 seconds west and along said pierhead line, 2,665.25 feet to the intersection of the United States bulkhead line;

Thence north 0 degree 19 minutes 35 seconds west and along the United States Bulkhead line 1,138.50 feet to the intersection of the westerly prolongation of the center line of 26th Avenue,

Thence north 58 degrees 25 minutes 06 seconds east and along the center line of said 26th Avenue, 2,320.85 feet to the westerly line of Cropsey Avenue, then southeasterly and along the southerly line of Cropsey Avenue the following bearings and distances:

South 31 degrees 34 minutes 54 seconds east, 4,124.59 feet; and

South 12 degrees 41 minutes 03 seconds east, 710.74 feet to the point or place of beginning.

Coordinates and bearings are in the system as established by the United States Coast and Geodetic Survey for the Borough of Brooklyn. The Secretary shall make the public interest determination separately for each proposed project, using reasonable discretion, within 150 days after submission of appropriate plans for each proposed project.

102 STAT. 4040

(b) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including, but not necessarily limited to, sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the River and Harbors Appropriation Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(c) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the

(2) to hold and save the United States free from damages due to construction, operation, and maintenance of the project, except damages due to the fault or negligence of the United States or its contractors; and

(3) after the completion of the research work, to operate and maintain the restored wetlands in accordance with good management practices.

The value of the non-Federal lands, easements, rights-of-way, and relocations provided by the non-Federal interests, shall be credited toward the non-Federal share of project construction costs. The non-Federal share of project construction costs shall be 25 percent.

(b) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to the Secretary $2,200,000 for the period of fiscal years 1990 through 1994 to carry out this section.

(c) PURPOSES.—The project authorized by this section shall—

(1) define the wetland functions expected to be restored and maintained giving due consideration to site specific climatic, topographic, hydrologic, and edaphic conditions;

(2) conduct research to establish the critical relationships between the land, water, and biotic factors responsible for the defined wetland functions;

(3) establish and report design and construction procedures necessary to create the defined wetland functions throughout similar climatic areas and identify and report these wetland functions;

(4) create or restore sustainable wetlands which will serve as examples of the benefits and aesthetics of wetland landscapes; and

(5) secure the long-term commitment from a State or local agency for the maintenance of the wetlands following the research work.

(d) REPORT.—The Secretary shall report to Congress on the degree of progress achieved in carrying out the project under this section. 102 STAT. 4042

SEC. 46. KISSIMMEE RIVER, FLORIDA.

The Secretary is directed to proceed with work on the Kissimmee River demonstration project, Florida, pursuant to section 1135 of the Water Resources Development Act of 1986.

SEC. 47. WATER RESOURCES STUDIES.

(a) INTERNAL DRAINAGE SYSTEM, FROG POND AGRICULTURAL AREA, FLORIDA.—The Secretary shall conduct a study for the purpose of determining the need for an internal drainage system in the Frog Pond agricultural area of south Dade County, Florida. Within 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a reconnaissance report on the need for such system. Reports.

(b) BARTLETT, ILLINOIS.—Before issuing a permit under section 404 of the Federal Water Pollution Control Act for a proposed municipal landfill in the vicinity of Bartlett, Illinois, the Secretary shall consider the impact of such landfill on the Newark Valley Aquifer and on the ability of water from such Aquifer to dilute for purposes of drinking water supply naturally occurring radium in groundwater. Before issuing such permit, the Secretary shall consult with the Administrator of the Environmental Protection Agency with respect to the impact of such landfill on the Newark Valley Aquifer. Such consultation shall occur within 45 days after the date of the issuance, when and if made, of the Illinois water quality certification of such landfill pursuant to section 401 of such Act and shall include the Administrator's analysis of the permit record of the Illinois Environmental Protection Agency with respect to the water quality impacts of such landfill. Within 90 days of receiving a completed application for a permit under section 404 of such Act, including such Illinois water quality certification, the Secretary shall report to Congress on the impact of such landfill on the Newark Valley Aquifer. The provisions of this subsection shall not Reports.

constitute an affirmative requirement for the Secretary to expand upon the existing permit record as prepared by the Illinois Environmental Protection Agency.

(c) BLUESTONE LAKE, WEST VIRGINIA.—

Reports.

(1) IN GENERAL.—The Secretary, in cooperation with the Secretary of the Interior, is authorized and directed to conduct a study and prepare a report on modifying the operation of the Bluestone Lake project, West Virginia, in order to facilitate the protection and enhancement of biological resources and recreational use of waters downstream from the project. Specific consideration shall be given in the study to all feasible means of improving flows from such project during periods when flows from the lake are less than 3,000 cubic feet per second, except that the study shall not consider project operation adjustments which entail major construction modifications at the project.

Federal Register, publication.

(2) NOTICE AND COMMENTS.—The Secretary shall publish notice of the proposed study under this subsection in the Federal Register within 3 months after the date of the enactment of this Act and shall consider any written comments regarding the scope of the study which are submitted during the 60-day period after publication of such notice.

(3) FINAL REPORT.—Not later than 18 months after the date of the enactment of this Act, the final report on the results of the study under this subsection shall be transmitted to Congress.

33 USC 988 note.

(d) GREAT LAKES AND SAINT LAWRENCE SEAWAY.—

Contracts.

102 STAT. 4043

(1) STUDY OF FINANCING NAVIGATIONAL IMPROVEMENTS.—The Secretary, in cooperation with other Federal agencies and private persons, is authorized and directed to contract with an independent party to conduct a study of cost recovery options and alternative methods of financing navigational improvements on the Great Lakes connecting channels and Saint Lawrence Seaway, including modernization of the Eisenhower and Snell Locks of the Saint Lawrence Seaway.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study carried out under this subsection together with recommendations.

(3) COST SHARING.—The non-Federal share of the cost of the study under this subsection shall be 50 percent; except that not more than 1/2 of such non-Federal share may be made by the provision of services, materials, supplies, or other in-kind services necessary to carry out the study.

SEC. 48. DIVISION LABORATORY.

The Secretary is authorized to construct a new division laboratory at an estimated cost of $2,400,000, for the United States Army Engineer Division, Ohio River. Such laboratory shall be constructed on a suitable site, which the Secretary is authorized to acquire for such purpose.

SEC. 49. WATER RESOURCES MANAGEMENT PLANNING SERVICE FOR THE HUDSON RIVER BASIN.

Appropriation authorization.

The Secretary is directed to establish a water resources management and planning service for the Hudson River Basin in New York and New Jersey. There is authorized to be appropriated $400,000 annually for the purpose of providing the two States a full range of services for the development and implementation of State and local water resource initiatives.

SEC. 50. TECHNICAL RESOURCE SERVICE, RED RIVER BASIN, MINNESOTA AND NORTH DAKOTA.

Appropriation authorization.

The Secretary is directed to establish a Technical Resource Service for the Red River Basin in Minnesota and North Dakota. There is authorized to be appropriated $500,000 annually for the purpose of providing to such States a full range of technical services for the development and implementation of State and local water and related land resources initiatives within the Red River Basin and

SEC. 38. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF THE DELAWARE RIVER. 33 USC 59j-1.

(a) AREA TO BE DECLARED NON-NAVIGABLE; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects in Philadelphia, Pennsylvania, to be undertaken within the boundaries described below, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of the Delaware River, bounded and described as follows, are declared to be non-navigable waters of the United States: Pennsylvania.

(1) LIBERTY LANDING.

Description of Pier 53 South

All that certain lot or piece of ground together with the improvements thereon erected, situate in the 1st ward of the city of Philadelphia and described according to a plan of property by John Stefanco, Surveyor and Regulator of the Second Survey District, dated November 4, 1974 and revised December 18, 1974:

Beginning at an interior point formed by the intersection of the following two courses and distances: (1) north 14 degrees 46 minutes 39 seconds east, the distance of 781.002 feet northwardly from the northerly side of Reed Street (50 feet wide bearing south 75 degrees 13 minutes 21 seconds east); (2) south 75 degrees 20 minutes 21 seconds east, the distance of 231.805 feet eastwardly from the easterly side of Delaware Avenue (150 feet wide bearing north 14 degrees 39 minutes 39 seconds east); thence extending from said point of beginning, north 0 degree 49 minutes 15 seconds west, the distance of 160.856 feet to a point; thence extending north 79 degrees 53 minutes 04 seconds east, the distance of 24.808 feet to a point; thence extending north 10 degrees 03 minutes west, the distance of 15.0 feet to a point; thence extending south 79 degrees 53 minutes 04 seconds west, the distance of 22.723 feet to a point; thence extending north 4 degrees 56 minutes 56 seconds west, the distance of 99.228 feet to a point; thence extending south 80 degrees 53 minutes 04 seconds west, the distance of 7.0 feet to a point on an arc; thence extending along an arc curving to the right having a radius of 698.835 feet, a central angle of 11 degrees 29 minutes 44 seconds, an arc distance of 140.211 feet to a point of tangency; thence extending north 0 degree 44 minutes 16 seconds west, the distance of 57.302 feet to a point on the former centre line of former Washington Avenue (100 feet wide); thence extending along the said centre line of former Washington Avenue and crossing the bed of a 30-foot-wide private driveway and the bulkhead line, (approved by the Secretary of War, September 10, 1940); south 75 degrees 13 minutes 21 seconds east, the distance of 940.350 feet to a point on the pierhead line (approved by the Secretary of War, September 10, 1940); thence extending along the said pierhead line, south 1 degree 32 minutes 57 seconds east, the distance of 422.516 feet to a point; thence extending north 75 degrees 13 minutes 21 seconds west, recrossing the said Bulkhead line; the distance of 690.031 feet to a point; thence extending north 6 degrees 35 minutes 30 seconds west, the distance of 58.388 feet to a point; thence extending south 79 degrees 54 minutes west, the distance of 19.120 feet to a point; thence extending south 10 degrees 6 minutes east, the distance of 4.10 feet to a point; thence extending south 79 degrees 54 minutes west, and crossing the bed of the aforementioned 30-foot-wide private driveway, the distance of 196.802 feet to the First mentioned *point and place of beginning.* 102 STAT. 4033

Containing in total area 374,026.6 square feet—8.58647 acres description of 30-foot-wide private driveway within the property of Pier 53 south.

All that certain lot or piece of ground described as a 30-foot-wide private driveway as shown on a plan of property, situate in the 1st ward of the city of Philadelphia, by John Stefanco, Surveyor and Regulator of the Second Survey District, dated November 4, 1974 and revised December 18, 1974.

Containing 3.148 acres, more or less, as surveyed on June 29, 1981, by Lawrence J. Cleary, Surveyor and Regulator of the 3rd District.

Together with 1,736 linear feet of track thereupon erected, made or being and all and every of the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging, or in anywise appertaining. Being known as pier 40 north.

Being the same premises which Ralph Heller, an individual by deed dated November 4, 1981, and recorded in Philadelphia County, in deed book EFP 345 page 531 conveyed unto pier 40 north associates, a Penna. Limited partnership, its successors and assigns, as partnership property for the uses and purposes of said partnership. 102 STAT. 4037

Description of piers 41, 42, and 43 north

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Topographic Survey and Plan of Property made May 23, 1988, by Lawrence J. Cleary, Surveyor and Regulator of the Third Survey District:

Beginning at the point formed by the intersection of the easterly side of Penn Street (60 feet wide), and the southerly side of former Laurel Street (50 feet wide), stricken and reserved for drainage; thence extending south 46 degrees 30 minutes 00 seconds east, along the said southerly side of former said Laurel Street, the distance of 190 feet 9 inches to a point on the bulkhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending south 46 degree 30 minutes 00 seconds east the distance of 571 feet 3¼ inches to a point on the pierhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending south 48 degrees 13 minutes 07 seconds west along the said pierhead line the distance of 283 feet 5½ inches to a point; thence extending north 46 degrees 30 minutes 00 seconds west leaving said pierhead line the distance of 546 feet 11⅝ inches to a point on the aforementioned bulkhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending north 46 degrees 30 minutes 00 seconds west the distance of 191 feet 8⅞ inches to a point on the easterly side of said Penn Street; thence extending north 43 degrees 30 minutes 00 seconds east along the easterly side of said Penn Street the distance of 282 feet 6 inches to the first mentioned point and place of beginning.

Description of piers 44 to 50 north, inclusive

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Survey and Plan of Property made March 7, 1985 by Lawrence J. Cleary, Surveyor and Regulator of the Third Survey District:

Beginning at a point of intersection formed by the northeasterly side of Shackamaxon Street (60 feet wide) and the southeasterly side of Penn Street (50 feet wide); thence extending south 22 degrees 26 minutes 57 seconds east along the northeasterly side of the bed of former Shackamaxon Street (reserved for drainage purposes), the distance of 170 feet 8⅝ inches to a point on the bulkhead line of the Delaware River (established January 5, 1894—approved by the Secretary of War, September 10, 1940); thence further extending south 22 degrees 26 minutes 57 seconds east along the northeasterly side of the bed of former Shackamaxon Street (subject to a right-of-way for sewer maintenance as provided in ordinance), the distance of 623 feet 6⅜ inches to a point on the pierhead line of the Delaware River (established January 5, 1894—approved by the Secretary of War, September 10, 1940); thence extending south 54 degrees 04 minutes 10 seconds west along the said pierhead line (being also the southeasterly head of the said former Shackamaxon Street), the distance of 61 feet 8⅜ inches to an angle point; thence extending south 48 degrees 11 minutes 38 seconds west along the said pierhead line the

requirements set out in subsection (b) of this section, or if work in connection with any activity permitted in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of non-navigability for such area or part thereof shall expire.

SEC. 40. EXTENSION OF MODIFIED WATER DELIVERY SCHEDULES, EVERGLADES NATIONAL PARK.

The first sentence of section 1302 of the Supplemental Appropriations Act, 1984 (97 Stat. 1292-1293) is amended by striking out "January 1, 1989" and inserting in lieu thereof "January 1, 1992".

SEC. 41. PERIOD OF ENVIRONMENTAL DEMONSTRATION PROGRAM.

(a) EXTENSION OF PERIOD.—Section 1135(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note) is amended by striking out "two-year period" and inserting in lieu thereof "5-year period".

(b) REPORTS.—Section 1135(d) of such Act is amended by striking out "two years" and inserting in lieu thereof "5 years".

Energy.
42 USC 1962d-5g note.

SEC. 42. FEDERAL HYDROELECTRIC POWER MODERNIZATION STUDY.

(a) STUDY.—The Secretary shall conduct a study of the need to modernize and upgrade the federally owned and operated hydroelectric power system.

(b) REPORT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a) together with recommendations.

Energy.
42 USC 1962d-5g note.

SEC. 43. WATER QUALITY EFFECTS OF HYDROELECTRIC FACILITIES.

(a) STUDY.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, shall undertake a study of the water quality effects of hydroelectric facilities owned and operated by the Corps of Engineers. Such study shall be transmitted to Congress within 2 years of the date of the enactment of this Act and shall consider and include information for each such Corps of Engineers hydroelectric facility pertaining to: relevant water quality standards including dissolved oxygen; water quality monitoring data; possible options and projected costs of measures required to improve the quality of water released from each such facility where justified; and recommendations with respect to such study results.

102 STAT. 4041

(b) LIMITATIONS.—Nothing in this section shall convey to any agency of the Federal Government any new authority with respect to the allocation or release of water from Federal reservoirs. Further, nothing in this section is designed or intended to affect any present or future legal actions or proceedings.

SEC. 44. GAO REVIEW OF CIVIL WORKS PROGRAM.

The Comptroller General of the United States General Accounting Office is authorized and directed to conduct a review of the Civil Works Program of the United States Army Corps of Engineers. This management and administration review shall be transmitted to Congress, together with any recommendations which the Comptroller General may make.

Research and development.
33 USC 2300 note.

SEC. 45. DES PLAINES RIVER WETLANDS DEMONSTRATION PROJECT AUTHORIZATION.

(a) RESTORATION OF WETLANDS.—The Secretary is authorized to carry out a project to construct, and engage in other activities, necessary for the restoration of wetlands, of sufficient scale, for research and demonstration purposes adjacent to the Des Plaines River in Wadsworth, Illinois. The non-Federal interest shall agree—

(1) to provide, without cost to the United States, all lands, easements, and rights-of-ways necessary for construction and subsequent research and demonstration work;

such Harbor shall be deemed to be a reference to "Ventura Harbor".

(b) ELVIS STAHR HARBOR, PORT OF HICKMAN.— Kentucky.

(1) DESIGNATION.—The harbor located on the Mississippi River at Hickman, Kentucky, known as the Port of Hickman, shall hereafter be known and designated as the "Elvis Stahr Harbor, Port of Hickman".

(2) LEGAL REFERENCE.—A reference in any law, map, regulation, document, record, or other paper of the United States to such harbor shall hereafter be deemed to be a reference to the "Elvis Stahr Harbor, Port of Hickman".

(c) ED JONES BOAT RAMP.— Tennessee.

(1) DESIGNATION.—The boat ramp to be constructed on the Mississippi River in Lauderdale County, Tennessee, shall be known and designated as the "Ed Jones Boat Ramp".

(2) LEGAL REFERENCE.—A reference in any law, map, regulation, document, record, or other paper of the United States to such boat ramp shall be deemed to be a reference to the "Ed Jones Boat Ramp".

SEC. 54. DECLARATION OF NONNAVIGABILITY OF BODIES OF WATER IN RIDGEFIELD, NEW JERSEY. 33 USC 59z.

The three bodies of water located at block 4004, lots 1 and 2, and block 4003, lot 1, in the Borough of Ridgefield, County of Bergen, New Jersey, which have their mouths at the Hackensack River at 40 degrees 49 minutes 58 seconds north latitude and 74 degrees 01 minute 46 seconds west longitude, 40 degrees 49 minutes 46 seconds north latitude and 74 degrees 01 minute 55 seconds west longitude, and 40 degrees 49 minutes 35 seconds north latitude and 74 degrees 02 minutes 04 seconds west longitude, respectively, and the body of water located at block 4006, lot 1, in the Borough of Ridgefield, County of Bergen, New Jersey, which has its mouth at the Hackensack River at 40 degrees 49 minutes 15 seconds north latitude and 74 degrees 01 minute 52 seconds west longitude, are declared to be nonnavigable waterways of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) and section 9 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401), commonly known as the River and Harbors Appropriation Act of 1899.

Approved November 17, 1988.

LEGISLATIVE HISTORY—S. 2100 (H.R. 5247):

HOUSE REPORTS: No. 100-1098 (Comm. of Conference).
SENATE REPORTS: No. 100-313 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 26, considered and passed Senate.
Sept. 30, considered and passed House, amended, in lieu of H.R. 5247.
Oct. 20, Senate agreed to conference report.
Oct. 21, House agreed to conference report.

Public Law 100-688
100th Congress

102 STAT. 4139

An Act

To amend the Marine Protection, Research, and Sanctuaries Act of 1972 to provide for termination of ocean dumping of sewage sludge and industrial waste, and for other purposes.

Nov. 18, 1988
[S. 2030]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Environmental protection.

sub-basins. The Technical Resource Service is to be provided in addition to related services provided under authority of section 206 of the River and Harbor and Flood Control Act of 1960 and section 22 of the Water Resources Development Act of 1974.

SEC. 51. CORRECTION OF DESCRIPTIONS.

(a) HUDSON RIVER, NEW YORK.—That portion of Public Law 100-202 designated as the Energy and Water Development Appropriation Act, 1988 is amended by striking out the undesignated paragraph beginning "The following portion of the Hudson River" and ending "the States of New York and New Jersey." (101 Stat. 1329-109) and inserting in lieu thereof the following:

"The following portion of the Hudson River in the Borough of Manhattan, New York County, State of New York, is hereby declared not to be part of the federally authorized Channel Deepening Project; that portion of the Hudson River and land thereunder more particularly bounded and described as follows: Beginning at a point in the United States Pierhead Line approved by the Secretary of War on July 31, 1941, such point having a coordinate of north 4,677.56 feet and west 11,407.92 feet and running: (1) northerly along such Pierhead Line on a bearing of north 21 degrees 01 minutes 53 seconds west for a distance of 700 feet to a point; thence (2) westerly at right angles to such Pierhead Line on a bearing of south 68 degrees 58 minutes 07 seconds west for a distance of 200 feet to a point; thence (3) southerly and parallel with such Pierhead Line on a bearing of south 21 degrees 01 minutes 53 seconds east for a distance of 700 feet to a point; thence (4) easterly at right angles to such Pierhead Line on a bearing of north 68 degrees 58 minutes 07 seconds east for a distance of 200 feet to the point of beginning. Bearings and coordinates are in the system used on the Borough Survey, Borough President's Office, Manhattan. This declaration shall apply to all or any part of such described area used or needed for New York harbor passenger ferry boat service as such may be operated by or contracted for operation by a bistate agency created by compact between the States of New York and New Jersey.". 102 STAT. 4044

Compacts between States. New Jersey.

(b) MIANUS RIVER, CONNECTICUT.—Section 1006(b) of the Water Resources Development Act of 1986 (100 Stat. 4223) is amended—

(1) in paragraph (2) by striking out "coordinates N14296.251" and inserting in lieu thereof "coordinate: N14296.451"; and

(2) in paragraph (3)—

(A) by striking out "64 seconds West" and inserting in lieu thereof "54 seconds West"; and

(B) by striking out "coordinate: N13970.8" and inserting in lieu thereof "coordinate: N13970.81".

SEC. 52. PROJECT DEAUTHORIZATIONS.

(a) EXTENSION OF LIMITATION ON PERIOD OF AUTHORIZATION.—

(1) PROJECTS IN THIS ACT.—The provisions of section 1001(a) and section 1001(c) of the Water Resources Development Act of 1986 shall apply to the projects authorized for construction by this Act, except that the 5-year period during which funds must be obligated to prevent deauthorization shall begin on the date of the enactment of this Act.

(2) PROJECTS THEREAFTER.—The provisions of section 1001(a) and section 1001(c) of the Water Resources Development Act of 1986 shall also apply to projects authorized for construction subsequent to this Act, except that the 5-year period during which funds must be obligated to prevent deauthorization shall begin on the date of the authorization of such projects.

33 USC 579e note.

(b) SPECIFIED PROJECTS.—The following projects are not authorized after the date of the enactment of this Act, except with respect to any portion of such a project which portion has been completed before such date of enactment or is under construction on such date of enactment:

(1) ROCKLAND LAKE, TEXAS.—The Rockland Lake water re-

sources project, Texas, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public work on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 18).

(2) WHITE RIVER NAVIGATION TO BATESVILLE, ARKANSAS.—The project for navigation, White River Navigation to Batesville, Arkansas, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4139).

102 STAT. 4045

(3) CHICAGO RIVER TURNING BASIN, CHICAGO HARBOR, ILLINOIS.—The inner basin of Chicago Harbor, Illinois, known as the Chicago River Turning Basin, authorized by the first section of the Act entitled "An Act making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes, for the fiscal year ending June 30, 1871", approved July 11, 1870 (16 Stat. 226).

(c) ALGOMA, WISCONSIN, OUTER HARBOR.—

(1) DEAUTHORIZATION.—Except as provided in paragraph (2), the outer harbor basin feature of the navigation project for Algoma, Wisconsin, authorized by the Act entitled "An Act making appropriations for construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1907 (34 Stat. 1101), is not authorized after the date of the enactment of this Act.

(2) RETENTION OF MAINTENANCE RESPONSIBILITIES FOR BREAKWATERS AND CHANNEL.—The Secretary shall retain all responsibilities of the Secretary existing on the date of the enactment of this Act for maintenance of the breakwaters and channel of the harbor at Algoma, Wisconsin.

State listing.

(d) CONTINUATION OF PROJECT AUTHORIZATIONS.—Notwithstanding section 1001(b)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(1))—

(1) the navigation project for Monterey Harbor (Monterey Bay), California, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 483),

(2) the navigation project for the North Branch of the Chicago River, Illinois, authorized by the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 24, 1946 (60 Stat. 636),

(3) the element of the Missouri River Basin Project authorized by section 228 of the River and Harbor Act of 1970, and

(4) the navigation project for the James River, Virginia, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1174),

shall remain authorized after December 31, 1989. Such projects and elements shall not be authorized for construction after the last day of the 5-year period beginning on the date of the enactment of this Act unless during such period funds have been obligated for construction, including planning and designing, of such projects and elements.

Federal Register, publication.

(e) NOTICE.—The Secretary shall publish in the Federal Register notice as to any project which would no longer have been authorized pursuant to the provisions of section 1001 of the Water Resources Development Act of 1986 or subsection (a) of this section but remains authorized due to enactment of law by Congress.

SEC. 53. NAMINGS.

(a) VENTURA HARBOR.—

California.

(1) DESIGNATION.—The harbor commonly known as Ventura Marina, located in Ventura County, California, and adopted and authorized by section 101 of Public Law 90-483, shall hereafter be known and designated as "Ventura Harbor".

102 STAT. 4046

(2) LEGAL REFERENCES.—A reference in any law, map, regulation, document, record, or other paper of the United States to

Ocean Dumping Ban Act of 1988. Public health and safety. 33 USC 1401 note.

TITLE I—OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE

SEC. 1001. SHORT TITLE.

This title may be cited as the "Ocean Dumping Ban Act of 1988".

SEC. 1002. ESTABLISHMENT OF FEES AND PENALTIES FOR OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE.

33 USC 1414a. The Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is amended by striking the second section 104A and inserting in lieu thereof the following:

33 USC 1414b. **"SEC. 104B. OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE.**

"(a) TERMINATION OF DUMPING.—

"(1) PROHIBITIONS ON DUMPING.—Notwithstanding any other provision of law—

"(A) on and after the 270th day after the date of the enactment of this section, no person (including a person described in section 104A(a)(1)(C)) shall dump into ocean waters, or transport for the purpose of dumping into ocean waters, sewage sludge or industrial waste, unless such person—

"(i) has entered into a compliance agreement or enforcement agreement which meets the requirements of subsection (c) (2) or (3), as applicable; and

"(ii) has obtained a permit issued under section 102 which authorizes such transportation and dumping; and

"(B) after December 31, 1991, it shall be unlawful for any person to dump into ocean waters, or to transport for the purposes of dumping into ocean waters, sewage sludge or industrial waste.

"(2) PROHIBITION ON NEW ENTRANTS.—The Administrator shall not issue any permit under this Act which authorizes a person to dump into ocean waters, or to transport for the purposes of dumping into ocean waters, sewage sludge or industrial waste, unless that person was authorized by a permit issued under section 102 or by a court order to dump into ocean waters, or to transport for the purpose of dumping into ocean waters, sewage sludge or industrial waste on September 1, 1988.

102 STAT. 4140

"(b) SPECIAL DUMPING FEES.—

"(1) IN GENERAL.—Subject to paragraph (4), any person who dumps into ocean waters, or transports for the purpose of dumping into ocean waters, sewage sludge or industrial waste shall be liable for a fee equal to—

"(A) $100 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after the 270th day after the date of the enactment of this section and before January 1, 1990;

"(B) $150 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after January 1, 1990, and before January 1, 1991; and

"(C) $200 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after January 1, 1991, and before January 1, 1992.

"(2) PAYMENT OF FEES.—Of the amount of fees under paragraph (1) for which a person is liable, such person—

"(A) shall pay into a trust account established by the person in accordance with subsection (e) a sum equal to 85 percent of such amount;

"(B) shall pay to the Administrator a sum equal to $15 per dry ton (or equivalent) of sewage sludge and industrial waste transported or dumped by such person, for use for agency activities as provided in subsection (f)(1);

"(C) subject to paragraph (5), shall pay into the Clean Oceans Fund established by the State in which the person is located a sum equal to 50 percent of the balance of such amount after application of subparagraphs (A) and (B); and

"(D) subject to paragraph (5), shall pay to the State in which the person is located a sum equal to the balance of such amount after application of subparagraphs (A), (B), and (C), for deposit into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act, as provided in subsection (f)(2).

"(3) SCHEDULE FOR PAYMENT.—Fees under this subsection shall be paid on a quarterly basis.

"(4) WAIVER OF FEES.—(A) The Administrator shall waive all fees under this subsection, other than the portion of fees required to be paid to the Administrator under paragraph (2)(B) for agency activities, for any person who has entered into a compliance agreement which meets the requirements of subsection (c)(2).

"(B) The Administrator shall reimpose fees under this subsection for a person for whom such fees are waived under subparagraph (A) if the Administrator determines that—

"(i) the person has failed to comply with the terms of a compliance agreement which the person entered into under subsection (c)(2); and

"(ii) such failure is likely to result in the person not being able to terminate by December 31, 1991, dumping of sewage sludge or industrial waste into ocean waters.

"(C) The Administrator may waive fees reimposed for a person under subparagraph (B) if the Administrator determines that the person has returned to compliance with a compliance agreement which the person entered into under subsection (c)(2).

102 STAT. 4141

"(5) PAYMENTS PRIOR TO ESTABLISHMENT OF ACCOUNT.—(A) In any case in which a State has not established a Clean Oceans Fund or a water pollution control revolving fund under title VI of the Federal Water Pollution Control Act, fees required to be paid by a person in that State under paragraph (2) (C) or (D), as applicable, shall be paid to the Administrator.

"(B) Amounts paid to the Administrator pursuant to this paragraph shall be held by the Administrator in escrow until the establishment of the fund into which such amounts are required to be paid under paragraph (2), or until the last day of the 1-year period beginning on the date of such payment, whichever is earlier, and thereafter—

"(i) if such fund has been established, shall be paid by the Administrator into the fund; or

"(ii) if such fund has not been established, shall revert to the general fund of the Treasury.

"(c) COMPLIANCE AGREEMENTS AND ENFORCEMENT AGREEMENTS.—

State and local governments.

"(1) IN GENERAL.—As a condition of issuing a permit under section 102 which authorizes a person to transport or dump sewage sludge or industrial waste, the Administrator shall require that, before the issuance of such permit, the person and the State in which the person is located enter into with the Administrator—

"(A) a compliance agreement which meets the requirements of paragraph (2); or

"(B) an enforcement agreement which meets the requirements of paragraph (3).

"(2) COMPLIANCE AGREEMENTS.—An agreement shall be a compliance agreement for purposes of this section only if—

"(A) it includes a plan negotiated by the person, the State in which the person is located, and the Administrator that will, in the opinion of the Administrator, if adhered to by

the person in good faith, result in the phasing out and termination of ocean dumping, and transportation for the purpose of ocean dumping, of sewage sludge and industrial waste by such person by not later than December 31, 1991, through the design, construction, and full implementation of an alternative system for the management of sewage sludge and industrial waste transported or dumped by the person;

"(B) it includes a schedule which—

"(i) in the opinion of the Administrator, specifies reasonable dates by which the person shall complete the various activities that are necessary for the timely implementation of the alternative system referred to in subparagraph (A); and

"(ii) meets the requirements of paragraph (4);

"(C) it requires the person to notify in a timely manner the Administrator and the Governor of the State of any problems the person has in complying with the schedule referred to in subparagraph (B);

"(D) it requires the Administrator and the Governor of the State to evaluate on an ongoing basis the compliance of the person with the schedule referred to in subparagraph (B);

102 STAT. 4142

"(E) it requires the person to pay in accordance with this section all fees and penalties the person is liable for under this section; and

"(F) it authorizes the person to use interim measures before completion of the alternative system referred to in subparagraph (A).

"(3) ENFORCEMENT AGREEMENTS.—An agreement shall be an enforcement agreement for purposes of this section only if—

"(A) it includes a plan negotiated by the person, the State in which the person is located, and the Administrator that will, in the opinion of the Administrator, if adhered to by the person in good faith, result in the phasing out and termination of ocean dumping, and transportation for the purpose of ocean dumping, of sewage sludge and industrial waste by such person through the design, construction, and full implementation of an alternative system for the management of sewage sludge and industrial waste transported or dumped by the person;

"(B) it includes a schedule which—

"(i) in the opinion of the Administrator, specifies reasonable dates by which the person shall complete the various activities that are necessary for the timely implementation of the alternative system referred to in subparagraph (A); and

"(ii) meets the requirements of paragraph (4);

"(C) it requires the person to notify in a timely manner the Administrator and the Governor of the State of any problems the person has in complying with the schedule referred to in subparagraph (B);

"(D) it requires the Administrator and the Governor of the State to evaluate on an ongoing basis the compliance of the person with the schedule referred to in subparagraph (B);

"(E) it requires the person to pay in accordance with this section all fees and penalties the person is liable for under this section; and

"(F) it authorizes the person to use interim measures before completion of the alternative system referred to in subparagraph (A).

"(4) SCHEDULES.—A schedule included in a compliance agreement pursuant to paragraph (2)(B) or an enforcement agreement pursuant to paragraph (3)(B) shall establish deadlines for—

"(A) preparation of engineering designs and related specifications for the alternative system referred to in paragraph (2)(A) or paragraph (3)(A), as applicable;

"(B) compliance with appropriate Federal, State, and local statutes, regulations, and ordinances;

"(C) site and equipment acquisitions for such alternative system;

"(D) construction and testing of such alternative system;

"(E) operation of such alternative system at full capacity; and

"(F) any other activities, including interim measures, that the Administrator considers necessary or appropriate.

"(5) CLEAN OCEANS FUNDS.—(A) Each State that is a party to a compliance agreement or an enforcement agreement under this subsection shall establish an interest bearing account, to be known as a Clean Oceans Fund, into which a person shall pay fees and penalties in accordance with subsections (b)(2)(C) and (d)(2)(C)(i), respectively. 102 STAT. 4143

"(B) A State which establishes a Clean Oceans Fund pursuant to this paragraph shall allocate and pay from the fund each year, to each person in the State which has entered into a compliance agreement or enforcement agreement under this subsection, a portion of amounts in the fund on the last day of that year which is equal to the sum of—

"(i) amounts paid by the person into the fund in that year as fees pursuant to subsection (b)(2)(C) and as penalties pursuant to subsection (d)(2)(C)(i);

"(ii) amounts paid by the Administrator into the fund in that year as fees held in escrow for the person pursuant to subsection (b)(5)(B); and

"(iii) interest on such amounts.

"(C) Amounts allocated and paid to a person pursuant to subparagraph (B)—

"(i) shall be used for the purposes described in subsection (e)(2)(B); and

"(ii) may be used for matching Federal grants.

"(D) A Clean Oceans Fund established by a State pursuant to this paragraph shall be subject to such accounting, reporting, and other requirements as may be established by the Administrator to assure accountability of payments into and out of the fund.

"(6) PUBLIC PARTICIPATION.—The Administrator shall provide an opportunity for public comment regarding the establishment and implementation of compliance agreements and enforcement agreements entered into pursuant to this section.

"(d) PENALTIES.—

"(1) IN GENERAL.—In lieu of any other civil penalty under this Act, any person who has entered into a compliance agreement or enforcement agreement under subsection (c) and who dumps or transports sewage sludge or industrial waste in violation of subsection (a)(1)(B) shall be liable for a civil penalty, to be assessed by the Administrator, as follows:

"(A) For each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in calendar year 1992, $600.

"(B) For each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in any year after calendar year 1992, a sum equal to—

"(i) the amount of penalty per dry ton (or equivalent) for a violation occurring in the preceding calendar year, plus

"(ii) a percentage of such amount equal to 10 percent of such amount, plus an additional 1 percent of such amount for each full calendar year since December 31, 1991.

"(2) PAYMENT OF PENALTY.—Of the amount of penalties under paragraph (1) for which a person is liable, such person—

"(A) shall pay into a trust account established by the person in accordance with subsection (e) a sum which is a percentage of such amount equal to—

102 STAT. 4144

"(i) 90 percent of such amount, reduced by

"(ii) 5 percent of such amount for each full calendar year since December 31, 1991;

"(B) shall pay to the Administrator a sum equal to $15 per dry ton (or equivalent) of sewage sludge and industrial waste transported or dumped by such person in that year, for use for agency activities as provided in subsection (f)(1);

"(C) for violations in any year before calendar year 1995—

"(i) subject to paragraph (4), shall pay into the Clean Oceans Fund established by the State in which the person is located a sum equal to 50 percent of the balance of such amount; and

"(ii) subject to paragraph (4), shall pay to the State in which the person is located a sum equal to the portion of such amount which is not paid as provided in subparagraphs (A), (B), and (C), for deposit into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act, as provided in subsection (f)(2); and

"(D) for violations in any year after calendar year 1994, shall pay to the State in which the person is located a sum equal to the balance of such amount, for use by the State for providing assistance under subsection (f)(3).

"(3) SCHEDULE FOR PAYMENT.—Penalties under this subsection shall be paid on a quarterly basis.

State and local governments.

"(4) PAYMENTS PRIOR TO ESTABLISHMENT OF ACCOUNT.—In any case in which a State has not established a Clean Oceans Fund or a water pollution control revolving fund under title VI of the Federal Water Pollution Control Act, penalties required to be paid by a person in that State under paragraph (2)(C) (i) or (ii), as applicable, shall be paid to the Administrator for holding and payment or reversion, as applicable, in the same manner as fees are held and paid or revert under subsection (b)(5).

"(e) TRUST ACCOUNT.—

"(1) IN GENERAL.—A person who enters into a compliance agreement or an enforcement agreement under subsection (c) shall establish a trust account for the payment and use of fees and penalties under this section.

"(2) TRUST ACCOUNT REQUIREMENTS.—An account shall be a trust account for purposes of this subsection only if it meets, to the satisfaction of the Administrator, the following requirements:

"(A) Amounts in the account may be used only with the concurrence of the person who establishes the account and the Administrator; except that the person may use amounts in the account for a purpose authorized by subparagraph (B) after 60 days after notification of the Administrator if the Administrator does not disapprove such use before the end of such 60-day period.

"(B) Amounts in the account may be used only for projects which will identify, develop, and implement—

"(i) an alternative system, and any interim measures, for the management of sewage sludge and industrial waste, including but not limited to any such system or measures utilizing resource recovery, recycling, thermal reduction, or composting techniques; or

102 STAT. 4145

"(ii) improvements in pretreatment, treatment, and storage techniques for sewage sludge and industrial waste to facilitate the implementation of such alternative system or interim measures.

"(C) Upon a finding by the Administrator that a person did not pay fees or penalties into an account as required by this section, or did not use amounts in the account in accordance with this subsection, the balance of the amounts in the account shall be paid to the State in which the person is located, for deposit into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act, as provided in subsection (f)(2).

"(3) USE OF UNEXPENDED AMOUNTS.—Upon a determination by the Administrator that a person has terminated ocean dumping of sewage sludge or industrial waste, the balance of amounts in an account established by the person under this subsection shall be paid to the person for use—

"(A) for debts incurred by the person in complying with this Act or the Federal Water Pollution Control Act;

"(B) in meeting the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) which apply to the person, including operations and maintenance; and

"(C) for matching Federal grants.

"(4) USE FOR MATCHING FEDERAL GRANTS.—Amounts in a trust account under this subsection may be used for matching Federal grants.

"(f) USE OF FEES AND PENALTIES.—

"(1) AGENCY ACTIVITIES.—Of the total amount of fees and penalties paid to the Administrator in a fiscal year pursuant to subsections (b)(2)(B) and (d)(2)(B), respectively—

"(A) not to exceed one-third of such total amount shall be used by the Administrator for—

"(i) costs incurred or expected to be incurred in undertaking activities directly associated with the issuance under this Act of permits for the transportation or dumping of sewage sludge and industrial waste, including the costs of any environmental assessment of the direct effects of dumping under the permits;

"(ii) preparation of reports under subsection (i); and

"(iii) such other research, studies, and projects the Administrator considers necessary for, and consistent with, the development and implementation of alternative systems for the management of sewage sludge and industrial waste;

"(B) not to exceed one-third of such total amount shall be transferred to the Secretary of the department in which the Coast Guard is operating for use for— Uniformed services.

"(i) Coast Guard surveillance of transportation and dumping of sewage sludge and industrial waste subject to this Act; and

"(ii) such enforcement activities conducted by the Coast Guard with respect to such transportation and dumping as may be necessary to ensure to the maximum extent practicable complete compliance with the requirements of this Act; and

"(C) not to exceed one-third of such total amount shall be transferred to the Under Secretary of Commerce for Oceans and Atmosphere for use for—

"(i) monitoring, research, and related activities consistent with the program developed pursuant to subsection (j)(1); and

"(ii) preparing annual reports to the Congress pursuant to subsection (j)(4) which describe the results of such monitoring, research, and activities.

"(2) DEPOSITS INTO STATE WATER POLLUTION CONTROL REVOLVING FUND.—(A) Amounts paid to a State pursuant to subsection (b)(2)(D), (d)(2)(C)(ii), or (e)(2)(C) shall be deposited into the water pollution control revolving fund established by the State pursuant to title VI of the Federal Water Pollution Control Act.

"(B) Amounts deposited into a State water pollution control revolving fund pursuant to this paragraph—

"(i) shall not be used by the State to provide assistance to the person who paid such amounts for development or implementation of any alternative system;

"(ii) shall not be considered to be State matching amounts under title VI of the Federal Water Pollution Control Act; and

"(iii) shall not be subject to State matching requirements under such title.

"(3) PENALTY PAYMENTS TO STATES AFTER 1994.—(A) Amounts paid to a State as penalties pursuant to subsection (d)(2)(D) may be used by the State—

"(i) for providing assistance to any person in the State—

"(I) for implementing a management program under section 319 of the Federal Water Pollution Control Act;

"(II) for developing and implementing a conservation and management plan under section 320 of such Act; or

"(III) for implementing technologies and management practices necessary for controlling pollutant inputs adversely affecting the New York Bight, as such inputs are identified in the New York Bight Restoration Plan prepared under section 2301 of the Marine Plastic Pollution Research and Control Act of 1987; and

"(ii) for providing assistance to any person in the State who was not required to pay such penalties for construction of treatment works (as defined in section 212 of the Federal Water Pollution Control Act) which are publicly owned.

"(B) Amounts paid to a State as penalties pursuant to subsection (d)(2)(D) which are not used in accordance with subparagraph (A) shall be deposited into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act. Amounts deposited into such a fund pursuant to this subparagraph—

"(i) shall not be used by the State to provide assistance to the person who paid such amounts;

"(ii) shall not be considered to be State matching amounts under title VI of the Federal Water Pollution Control Act; and

"(iii) shall not be subject to State matching requirements under such title.

"(4) DEPOSITS INTO TREASURY AS OFFSETTING COLLECTIONS.—Amounts of fees and penalties paid to the Administrator pursuant to subsection (b)(2)(B) or (d)(2)(B) which are used by an agency in accordance with paragraph (1) shall be deposited into the Treasury as offsetting collections of the agency.

102 STAT. 4147

"(g) ENFORCEMENT.—

"(1) IN GENERAL.—Whenever, on the basis of any information available, the Administrator finds that a person is dumping or transporting sewage sludge or industrial waste in violation of subsection (a)(1), the Administrator shall issue an order requiring such person to terminate such dumping or transporting (as applicable) until such person—

"(A) enters into a compliance agreement or an enforcement agreement under subsection (c); and

"(B) obtains a permit under section 102 which authorizes such dumping or transporting.

"(2) REQUIREMENTS OF ORDER.—Any order issued by the Administrator under this subsection—

"(A) shall be delivered by personal service to the person named in the order;

"(B) shall state with reasonable specificity the nature of the violation for which the order is issued; and

"(C) shall require that the person named in the order, as a condition of dumping into ocean waters, or transporting for the purpose of dumping into ocean waters, sewage sludge or industrial waste—

"(i) shall enter into a compliance agreement or an enforcement agreement under subsection (c); and Contracts.

"(ii) shall obtain a permit under section 102 which authorizes such dumping or transporting.

"(3) ACTIONS.—The Administrator may request the Attorney General to commence a civil action for appropriate relief, including a temporary or permanent injunction and the imposition of civil penalties authorized by subsection (d)(1), for any violation of subsection (a)(1) or of an order issued by the Administrator under this section. Such an action may be brought in the district court of the United States for the district in which the defendant is located, resides, or is doing business, and such court shall have jurisdiction to restrain such violation and require compliance with subsection (a)(1) and any such order. Courts, U.S.

"(h) STATE PROGRESS REPORTS.—

(1) IN GENERAL.—The Governor of each State that is a party to a compliance agreement or an enforcement agreement under subsection (c) shall submit to the Administrator on September 30 of 1989 and of every year thereafter until the Administrator determines that ocean dumping of sewage sludge and industrial waste by persons located in that State has terminated, a report which describes—

"(A) the efforts of each person located in the State to comply with a compliance agreement or enforcement agreement entered into by the person pursuant to subsection (c), including the extent to which such person has complied with deadlines established by the schedule included in such agreement;

"(B) activity of the State regarding permits for the construction and operation of each alternative system; and

"(C) an accounting of amounts paid into and withdrawn from a Clean Oceans Fund established by the State. 102 STAT. 4148

"(2) FAILURE TO SUBMIT REPORT.—If a State fails to submit a report in accordance with this subsection, the Administrator shall withhold funds reserved for such State under section 205(g) of the Federal Water Pollution Control Act (33 U.S.C. 1285(g)). Funds withheld pursuant to this paragraph may, at the discretion of the Administrator, be restored to a State upon compliance with this subsection.

"(i) EPA PROGRESS REPORTS.—

"(1) IN GENERAL.—Not later than December 31 of 1989 and of each year thereafter until the Administrator determines that ocean dumping of sewage sludge and industrial waste has terminated, the Administrator shall prepare and submit to the Congress a report on—

"(A) progress being made by persons issued permits under section 102 for transportation or dumping of sewage sludge or industrial waste in developing alternative systems for managing sewage sludge and industrial waste;

"(B) the efforts of each such person to comply with a compliance agreement or enforcement agreement entered into by the person pursuant to subsection (c), including the extent to which such person has complied with deadlines established by the schedule included in such agreement;

"(C) progress being made by the Administrator and others in identifying and implementing alternative systems for the management of sewage sludge and industrial waste; and

"(D) progress being made toward the termination of ocean dumping of sewage sludge and industrial waste.

"(2) REFERRAL TO CONGRESSIONAL COMMITTEES.—Each report submitted to the Congress under this subsection shall be referred to each standing committee of the House of Representatives and of the Senate having jurisdiction over any part of the subject matter of the report.

"(j) ENVIRONMENTAL MONITORING.—

"(1) IN GENERAL.—The Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall design a program for monitoring environmental conditions—

"(A) at the Apex site (as that term is defined in section 104A);

"(B) at the site designated by the Administrator under section 102(c) and known as the '106-Mile Ocean Waste Dump Site' (as described in 49 F.R. 19005);

"(C) at the site at which industrial waste is dumped; and

"(D) within the potential area of influence of the sewage sludge and industrial waste dumped at those sites.

"(2) PROGRAM REQUIREMENTS.—The program designed under paragraph (1) shall include, but is not limited to—

"(A) sampling of an appropriate number of fish and shellfish species and other organisms to assess the effects of environmental conditions on living marine organisms in these areas; and

"(B) use of satellite and other advanced technologies in conducting the program.

"(3) MONITORING ACTIVITIES.—The Administrator and the Under Secretary of Commerce for Oceans and Atmosphere shall each conduct monitoring activities consistent with the program designed under paragraph (1).

102 STAT. 4149

"(4) REPORTS.—(A) Not later than 1 year after the date of the enactment of this section, the Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall submit to the Congress a report describing the program designed pursuant to paragraph (1).

"(B) Not later than December 31 of each year after the submission of a report under subparagraph (A), the Administrator and the Under Secretary of Commerce for Oceans and Atmosphere shall report to the Congress the results of monitoring activities conducted during the previous year under the program designed pursuant to paragraph (1).

"(k) DEFINITIONS.—For purposes of this section—

"(1) the term 'alternative system' means any method for the management of sewage sludge or industrial waste which does not require a permit under this Act;

"(2) the term 'Clean Oceans Fund' means such a fund established by a State in accordance with subsection (c)(5);

"(3) the term 'excluded material' means—

"(A) any dredged material discharged by the United States Army Corps of Engineers or discharged pursuant to a permit issued by the Secretary in accordance with section 103; and

"(B) any waste from a tuna cannery operation located in American Samoa or Puerto Rico discharged pursuant to a permit issued by the Administrator under section 102;

"(4) the term 'industrial waste' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant, other than an excluded material;

"(5) the term 'interim measure' means any short-term method for the management of sewage sludge or industrial waste, which—

"(A) is used before implementation of an alternative system; and

"(B) does not require a permit under this Act; and

"(6) the term 'sewage sludge' means any solid, semisolid, or liquid waste generated by a wastewater treatment plant, other than an excluded material.

SEC. 1003. CONFORMING AMENDMENTS.

(a) PUBLIC LAW 95-153.—Section 4 of Public Law 95-153 (33 U.S.C. 1412a) is amended—

(1) by striking subsection (a);

(2) by striking subsection (b);

(3) by redesignating subsection (c), and any reference thereto, as subsection (a);

(4) in subsection (a) (as so redesignated) by striking "After" and inserting "Notwithstanding section 104B of the Marine Protection, Research, and Sanctuaries Act of 1972, after";

(5) in subsection (a) (as so redesignated) by striking "such title I" and inserting "title I of such Act";

(6) by striking subsection (d); and

(7) by adding at the end the following:

"(b) For purposes of this section, the term 'industrial waste' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant.".

102 STAT. 4150

(b) ALTERNATIVES ASSESSMENT.—Section 2301(b)(8) of the Marine Plastic Pollution Research and Control Act of 1987 is amended by striking "dumping of municipal sludge and". 33 USC 2267 note.

(c) PRELIMINARY REPORT ON ALTERNATIVES.—Section 2303 of the Marine Plastic Pollution Research and Control Act of 1987 is amended— 33 USC 2267 note.

(1) by striking subsection (b), and

(2) redesignating subsections (c), (d), and (e), and any reference thereto, as subsections (b), (c), and (d), respectively.

SEC. 1004. ENFORCEMENT MONITORING REPORT.

Not later than 6 months after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency (hereinafter in this title referred to as the "Administrator"), in consultation with the Secretary of Transportation, shall submit a report to the Congress which outlines progress made in using electronic monitoring equipment, and other means to monitor and prevent dumping of sewage sludge outside the site designated by the Administrator under section 102(c) and known as the "106-Mile Ocean Waste Dump Site" (as described in 49 F.R. 19005), and by vessels in transit to that site.

SEC. 1005. PROHIBITION ON DISPOSAL OF SEWAGE SLUDGE AT LANDFILLS ON STATEN ISLAND.

The Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.), as amended by this Act, is amended by inserting after section 104B the following:

"SEC. 104C. PROHIBITION ON DISPOSAL OF SEWAGE SLUDGE AT LANDFILLS ON STATEN ISLAND. New York. 33 USC 1414c.

"(a) IN GENERAL.—No person shall dispose of sewage sludge at any landfill located on Staten Island, New York.

"(b) EXCLUSION FROM PENALTIES.—

"(1) IN GENERAL.—Subject to paragraph (2), a person who violates this section shall not be subject to any penalty under this Act.

"(2) INJUNCTION.—Paragraph (1) shall not prohibit the bringing of an action for, or the granting of, an injunction under section 105 with respect to a violation of this section.

"(c) DEFINITION.—For purposes of this section, the term 'sewage sludge' has the meaning such term has in section 104B.".

SEC. 1006. USE OF STATE WATER POLLUTION CONTROL REVOLVING FUND GRANTS FOR DEVELOPING ALTERNATIVE SYSTEMS. New York. New Jersey.

(a) GENERAL REQUIREMENT.—Notwithstanding the provisions of title VI of the Federal Water Pollution Control Act, each of the States of New York and New Jersey shall use 10 percent of the amount of a grant payment made to such State under such title for each of the fiscal years 1990 and 1991 and 10 percent of the State's contribution associated with such grant payment in the 6-month period beginning on the date of receipt of such grant payment for making loans and providing other assistance as described in section

603(d) of the Federal Water Pollution Control Act to any governmental entity in such State which has entered into a compliance agreement or enforcement agreement under section 104B of the
102 STAT. 4151 Marine Protection, Research, and Sanctuaries Act of 1972 for identifying, developing, and implementing pursuant to such section alternative systems for management of sewage sludge.

(b) LIMITATION.—If, after the last day of the 6-month period beginning on the date of receipt of a grant payment by the State of New York or New Jersey under title VI of the Federal Water Pollution Control Act for each of fiscal years 1990 and 1991, 10 percent of the amount of such grant payment and the State's contribution associated with such grant payment has not been used for providing assistance described in subsection (a) as a result of insufficient applications for such assistance from persons eligible for such assistance, the 10 percent limitations set forth in subsection (a) shall not be applicable with respect to such grant payment and associated State contribution.

SEC. 1007. OCEAN DISCHARGES.

Reports.

(a) IN GENERAL.—Within 6 months after the date of the enactment of this Act, the Administrator shall transmit to the Congress a report on the implementation of section 403(c) of the Federal Water Pollution Control Act (33 U.S.C. 1343(c)).

(b) REPORT CONTENTS.—The report under this section shall contain—

(1) an accounting of discharges into the waters of the territorial sea, the contiguous zone, and the ocean, including—

(A) the total number of discharges;

(B) the location, source, volume, and potential environmental effects of each discharge;

(C) the date of original issuance, review, and reissuance of each discharge permit; and

(D) the number of discharges that have been determined by the Administrator to be in compliance with the ocean discharge criteria regulations promulgated pursuant to section 403(c) of the Federal Water Pollution Control Act;

(2) a schedule for implementing section 403(c) of such Act and achieving compliance with guidelines promulgated under such section as expeditiously as practicable, and an estimate of the resources required to meet such schedule; and

(3) recommendations for any additional legislative authorities needed to achieve compliance with such guidelines.

SEC. 1008. CLERICAL AMENDMENT RELATING TO GREAT LAKES WATER QUALITY AGREEMENT OF 1978.

Section 118 of the Federal Water Pollution Control Act (33 U.S.C. 1268) is amended by inserting ", as amended by the Water Quality Agreement of 1987 and any other agreements and amendments," immediately after "the Great Lakes Water Quality Agreement of 1978" each place that term appears.

State listing.

TITLE II—DESIGNATION OF AREAS FOR PRIORITY CONSIDERATION UNDER NATIONAL ESTUARY PROGRAM

SEC. 2001. DESIGNATION OF AREAS.

33 USC 1330.

Section 320(a)(2)(B) of the Federal Water Pollution Control Act is
102 STAT. 4152 amended—

(1) by inserting "Massachusetts Bay, Massachusetts (including Cape Cod Bay and Boston Harbor);" after "Buzzards Bay, Massachusetts;";

(2) by striking "and" before "Galveston Bay, Texas"; and

TITLE IV—SHORE PROTECTION ACT OF 1988

Shore Protection Act of 1988.

SEC. 4001. SHORT TITLE.

33 USC 2601 note.

This title may be cited as the "Shore Protection Act of 1988".

Subtitle A—Shore Protection

SEC. 4101. DEFINITIONS.

33 USC 2601.

In this title—

(1) "Administrator" means the Administrator of the Environmental Protection Agency.

(2) "coastal waters" means—

(A) the territorial sea of the United States;

(B) the Great Lakes and their connecting waters;

(C) the marine and estuarine waters of the United States up to the head of tidal influence; and

(D) the Exclusive Economic Zone as established by Presidential Proclamation Number 5030, dated March 10, 1983.

(3) "municipal or commercial waste" means solid waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)) except—

(A) solid waste identified and listed under section 3001 of the Solid Waste Disposal Act (42 U.S.C. 6921);

(B) waste generated by the vessel during normal operations;

(C) debris solely from construction activities;

(D) sewage sludge subject to regulation under title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.); and

(E) dredged or fill material subject to regulation under title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), or the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 401 et seq.).

102 STAT. 4155

(4) "person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

(5) "receiving facility" means a facility or operation where municipal or commercial waste is unloaded from a vessel.

(6) "United States", when used in a geographic sense, means the States of the United States, Puerto Rico, the District of Columbia, the Virgin Islands, American Samoa, Guam, the Northern Mariana Islands, and any other territory or possession of the United States.

(7) "waste source" means a facility or vessel from which municipal or commercial waste is loaded onto a vessel, including any rolling stock or motor vehicles from which that waste is directly loaded.

SEC. 4102. VESSEL PERMITS AND NUMBERS.

33 USC 2602.

(a) IN GENERAL.—A vessel (except a public vessel as defined in section 2101 of title 46, United States Code) may not transport municipal or commercial waste in coastal waters without—

(1) a permit for that vessel from the Secretary of Transportation; and

(2) displaying a number or other marking on the vessel as prescribed by the Secretary under chapter 123 or section 12502(b) of title 46, United States Code.

(b) PERMIT APPLICATIONS.—Application for a permit required by subsection (a) of this section shall be made by the vessel owner or operator and include—

(3) by inserting after "Galveston Bay, Texas;" the following: "; Barataria-Terrebonne Bay estuary complex, Louisiana; Indian River Lagoon, Florida; and Peconic Bay, New York".

TITLE III—DUMPING OF MEDICAL WASTE

Subtitle A—Dumping by Public Vessels

United States Public Vessel Medical Waste Anti-Dumping Act of 1988. Public health and safety. 33 USC 2501 note.

SEC. 3101. SHORT TITLE. 33 USC 2501.

This subtitle may be cited as the "United States Public Vessel Medical Waste Anti-Dumping Act of 1988".

SEC. 3102. FINDINGS.

The Congress finds the following:

(1) The washing ashore of potentially infectious medical wastes from public vessels of the United States may pose serious and widespread risks to public health and to the welfare of coastal communities.

(2) Current Federal law provides inadequate protections against the disposal of such wastes from such vessels into ocean waters.

(3) Operators of such vessels must take immediate action to stop disposing of such wastes into ocean waters.

SEC. 3103. DEFINITIONS. 33 USC 2502.

For the purposes of this subtitle:

(1) POTENTIALLY INFECTIOUS MEDICAL WASTE.—The term "potentially infectious medical waste" includes isolation wastes; infectious agents; human blood and blood products; pathological wastes; sharps; body parts; contaminated bedding; surgical wastes; and other disposable medical equipment and material that may pose a risk to the public health, welfare or the marine environment.

(2) PUBLIC VESSEL.—The term "public vessel" means a vessel of any type whatsoever (including hydrofoils, air-cushion vehicles, submersibles, floating craft whether propelled or not, and fixed or floating platforms) that is owned, or demise chartered, and operated by the United States Government, and is not engaged in commercial service.

SEC. 3104. PROHIBITION. 33 USC 2503.

After 6 months after the date of the enactment of this Act, no public vessel shall dispose of potentially infectious medical waste into ocean waters unless—

(1)(A) the health or safety of individuals on board the vessel is threatened; or

(B) during time of war or a declared national emergency;

(2) the waste is disposed of beyond 50 nautical miles from the nearest land; and

(3)(A) in the case of a public vessel which is not a submersible, the waste is sterilized, properly packaged, and sufficiently weighted to prevent the waste from coming ashore after disposal; and

(B) in the case of a public vessel which is a submersible, the waste is properly packaged and sufficiently weighted to prevent the waste from coming ashore after disposal.

102 STAT. 4153

SEC. 3105. GUIDANCE. 33 USC 2504.

Not later than 3 months after the date of the enactment of this Act, the Secretary of Defense and the head of each affected agency, in consultation with the Administrator of the Environmental Protection Agency, shall each issue guidance for public vessels under the jurisdiction of their agency regarding implementation of section 3104.

Subtitle B—Dumping by Vessels

SEC. 3201. AMENDMENTS TO MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972.

(a) DEFINITION.—Section 3 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1402) is amended—

(1) by redesignating subsection (k) and (l), and any reference thereto, as subsections (l) and (m), respectively; and

(2) by inserting after subsection (j) the following:

"(k) 'Medical waste' means isolation wastes; infectious agents; human blood and blood products; pathological wastes; sharps; body parts; contaminated bedding; surgical wastes and potentially contaminated laboratory wastes; dialysis wastes; and such additional medical items as the Administrator shall prescribe by regulation.".

(b) PROHIBITION.—Subsection (a) of section 102 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1412(a)) is amended in the first sentence—

(1) by striking "biological warfare agents and" and inserting "biological warfare agents,"; and

(2) by inserting "and medical waste," after "radioactive waste,".

(c) CIVIL PENALTIES.—Section 105(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415(a)) is amended by inserting after the first sentence the following: "In addition, any person who violates this title or any regulation issued under this title by engaging in activity involving the dumping of medical waste shall be liable for a civil penalty of not more than $125,000 for each violation, to be assessed by the Administrator after written notice and an opportunity for a hearing.".

(d) CRIMINAL PENALTIES AND FORFEITURES.—Section 105(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415(b)) is amended—

(1) by inserting "(1)" before "In addition"; and

(2) by adding at the end the following:

"(2) In addition to any action which may be brought under subsection (a), any person—

"(A) who knowingly violates any provision of this title by engaging in activity involving the dumping into ocean waters of medical waste shall upon conviction be fined not more than $250,000, or imprisoned for not more than 5 years, or both; and

102 STAT. 4154

"(B) convicted of a violation involving such activity shall forfeit to the United States any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation, and any of the property of the person which was used, or intended to be used in any manner or part, to commit or to facilitate the commission of the violation.".

SEC. 3202. AMENDMENTS TO FEDERAL WATER POLLUTION CONTROL ACT.

(a) DEFINITION.—Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

"(20) The term 'medical waste' means isolation wastes; infectious agents; human blood and blood products; pathological wastes; sharps; body parts; contaminated bedding; surgical wastes and potentially contaminated laboratory wastes; dialysis wastes; and such additional medical items as the Administrator shall prescribe by regulation.".

(b) PROHIBITION.—Section 301(f) of the Federal Water Pollution Control Act (33 U.S.C. 1311(f)) is amended by striking "or high-level radioactive waste" and inserting ", any high-level radioactive waste, or any medical waste,".

(1) the name, address, and telephone number of the vessel owner and operator;
(2) the vessel's name and identification number;
(3) the vessel's area of operation;
(4) the vessel's transport capacity;
(5) a history of the types of cargo transported by that vessel during the previous year, including identifying the type of municipal or commercial waste transported as—
(A) municipal waste;
(B) commercial waste;
(C) medical waste; or
(D) waste of another character.
(6) any other information the Secretary may require; and
(7) an acknowledgment.

(c) EFFECTIVE DATE OF PERMITS.—A permit issued under this section—
(1) is effective 30 days after the date on which it was issued;
(2) may be issued only for a period of not more than 5 years after the effective date of the permit;
(3) may be renewed for periods of not more than 5 years only by the vessel owner or operator that applied for the original permit; and
(4) is terminated when the vessel is sold.

(d) DENIAL OF PERMITS.—The Secretary may, or at the request of
102 STAT. 4156 the Administrator shall, deny the issuance of a permit for any vessel if the owner or operator of the vessel has a record of a pattern of serious violations of—
(1) this subtitle;
(2) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);
(3) the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.);
(4) the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 401 et seq.); or
(5) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(e) PERMIT DECISION.—The Secretary, after consultation with the Administrator, shall issue or deny a vessel permit under this section within 30 days after receiving a complete application. On denying the issuance of the permit for a vessel the Secretary shall—
(1) notify the applicant of the denial and the reasons for the denial; and
(2) provide an opportunity for a hearing on the denial.

(f) MAINTAINING PERMIT.—
(1) IN GENERAL.—The permit issued for a vessel under this title shall be maintained in a manner prescribed by the Secretary.
(2) ENDORSEMENTS.—If a vessel is a documented vessel, the Secretary may endorse a permit on the vessel's certificate of documentation.

(g) VESSEL INFORMATION SYSTEM.—The Secretary may include information in a permit in the vessel information system maintained under chapter 125 of title 46, United States Code.

33 USC 2603. **SEC. 4103. WASTE HANDLING PRACTICES.**

(a) IN GENERAL.—
(1) LOADING.—The owner or operator of the waste source shall take all reasonable steps to assure that all municipal or commercial waste is loaded onto a vessel in a manner that assures that waste deposited in coastal waters is minimized.
(2) SECURING.—The owner or operator of a vessel shall assure that all municipal or commercial waste loaded onto the vessel is secured by netting or other means to assure that waste will not be deposited into coastal waters during transport.
(3) OFFLOADING.—The owner or operator of the receiving facility shall take all reasonable steps to assure that any

municipal or commercial waste is offloaded from a vessel in a manner that assures that waste deposited into coastal waters is minimized.

(4) CLEANING UP.—The owner or operator of any waste source or receiving facility shall provide adequate control measures to clean up any municipal or commercial waste which is deposited into coastal waters.

(b) REGULATIONS.—The Administrator, in consultation with the Secretary of Transportation, shall prescribe regulations—

(1) requiring that waste sources, receiving facilities, and vessels provide the means and facilities to assure that the waste will not be deposited into coastal waters during loading, offloading, and transport;

(2) requiring, as appropriate, the submission and adoption by each responsible party of an operation and maintenance manual identifying procedures to be used to prevent, report, and clean up any deposit of municipal or commercial waste into coastal waters, including record keeping requirements; and Records.

102 STAT. 4157

(3) if the Administrator determines that tracking systems are required to assure adequate enforcement of laws preventing the deposit of municipal or commercial waste into coastal waters, requiring installation of the appropriate systems within 18 months after the Administrator makes that determination.

SEC. 4104. SUSPENSION, REVOCATION, AND INJUNCTIONS. 33 USC 2604.

(a) SUSPENSION AND REVOCATION.—After notice and opportunity for a hearing, the Secretary of Transportation may, and at the request of the Administrator shall, suspend or revoke a permit issued to a vessel under this title for a violation of this title or a regulation prescribed under this title.

(b) INJUNCTIONS.—The Secretary or the Administrator may bring a civil action to enjoin any operation in violation of this title or a regulation prescribed under this title in the district court of the United States for the district in which the violation occurred.

SEC. 4105. ENFORCEMENT. 33 USC 2605.

(a) GENERAL AUTHORITY.—The Secretary of Transportation shall enforce this title under section 89 of title 14, United States Code. The Secretary may authorize other officers or employees of the United States Government to enforce this title under that section.

(b) PERIODIC EXAMINATIONS.—The Secretary shall conduct periodic examinations of vessels operating under this title transporting municipal or commercial waste to determine that each of these vessels has a permit issued under section 4102 of this Act.

(c) REFUSAL OF CLEARANCE.—The Secretary of the Treasury may refuse the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91), to any vessel subject to this title which does not have a permit required under section 4102 of this Act.

(d) DENIAL OF ENTRY AND DETENTION.—If a vessel does not comply with this title, the Secretary of Transportation may—

(1) deny entry to any place in the United States; and

(2) detain at the place in the United States from which it is about to depart.

(e) PERSISTENT VIOLATORS.—The Administrator shall conduct an investigation of the owner or operator of a vessel or facility if the owner has 5 or more separate violations during a 6-month period.

SEC. 4106. SUBPENA AUTHORITY. 33 USC 2606.

(a) GENERAL AUTHORITY.—In an investigation under this title, the attendance and testimony of witnesses, including parties in interest, and the production of any evidence may be compelled by subpena. The subpena authority granted by this section is coextensive with that of a district court of the United States, in civil matters, for the district in which the investigation is conducted.

(b) SUBPENA AUTHORITY.—An official designated by the Secretary of Transportation or Administrator to conduct an investigation under this part may issue subpenas as provided in this section and administer oaths to witnesses.

Courts, U.S.

(c) FAILURE TO COMPLY.—When a person fails to obey a subpena issued under this section, the district court of the United States for the district in which the investigation is conducted or in which the

102 STAT. 4158

person failing to obey is found, shall on proper application issue an order directing that person to comply with the subpena. The court may punish as contempt any disobedience of its order.

(d) WITNESS FEES.—A witness complying with a subpena issued under this section may be paid for actual travel and attendance at the rate provided for witnesses in the district courts of the United States.

33 USC 2607.

SEC. 4107. FEES.

The Secretary of Transportation may collect a fee under section 9701 of title 31, United States Code, of not more than $1,000, from each person to whom a permit is issued under this subtitle for a permitting system and to maintain information.

33 USC 2608.

SEC. 4108. CIVIL PENALTY PROCEDURES.

(a) GENERAL PROCEDURES.—After notice and an opportunity for a hearing, a person found by the Secretary of Transportation to have violated this title or a regulation prescribed under this title for which a civil penalty is provided, is liable to the United States Government for the civil penalty provided. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(b) COMPROMISING PENALTIES.—The Secretary may compromise, modify, or remit, with or without consideration, a civil penalty under this title until the assessment is referred to the Attorney General.

(c) REFERRAL TO THE ATTORNEY GENERAL.—If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

(d) REFUND OF PENALTY.—The Secretary may refund or remit a civil penalty collected under this title if—

(1) application has been made for refund or remission of the penalty within one year from the date of payment; and

(2) the Secretary finds that the penalty was unlawfully, improperly, or excessively imposed.

33 USC 2609.

SEC. 4109. PENALTIES.

(a) GENERAL PENALTY.—Except as provided in subsection (b) of this section, a person violating this title is liable to the United States Government for a civil penalty of not more than $25,000. Each day of a continuing violation is a separate violation. A vessel involved in the violation also is liable in rem for the penalty.

(b) OPERATING WITHOUT A PERMIT.—A person violating section 4102 of this Act is liable to the United States Government for a civil penalty of not more than $10,000. Each day of a continuing violation is a separate violation. A vessel involved in the violation also is liable in rem for the penalty.

(c) CRIMINAL PENALTY.—Any person that knowingly violates, or that knowingly aids, abets, authorizes, or instigates a violation of this title, shall be fined under title 18, United States Code, impris-

102 STAT. 4159

oned for not more than 3 years, or both.

(d) PAYMENTS FOR INFORMATION.—The court, the Secretary of Transportation, or the Administrator, as the case may be, may pay up to one-half of a fine or penalty to any person giving information leading to the assessment of the fine or penalty.

Subtitle B—Related Provisions

SEC. 4201. STUDY AND RECOMMENDATIONS. 33 USC 2621.

(a) STUDY.—The Administrator, in consultation with the Secretary of Transportation, shall conduct a study to determine the need for, and effectiveness of additional tracking systems for vessels to assure that municipal or commercial waste is not deposited in coastal waters. In conducting this study, the Administrator shall use the data collected from its permitting and enforcement activities under this title. In determining the effectiveness of tracking systems, the Administrator shall rely on the information provided by the Secretary under subsection (b) of this section. The report shall include a recommendation whether additional tracking systems are needed. This study shall be submitted to Congress within 24 months after the date of enactment of this title.

(b) RECOMMENDATIONS.—The Secretary shall provide recommendations to the Administrator concerning the various tracking systems that might be applicable to vessels transporting municipal or commercial waste which the Secretary currently is studying. The Secretary shall consider the relative effectiveness of various systems and the relative costs of the systems both to the United States Government and to the vessel owner.

SEC. 4202. RELATION TO OTHER LAWS. 33 USC 2622.

(a) EFFECT ON FEDERAL AND STATE LAWS.—This title does not affect the application of any other Federal or State law, statutory or common, including the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(b) EFFECT ON FOREIGN VESSELS.—This title shall be carried out with respect to foreign vessels consistent with the obligations of the United States under international law.

102 STAT. 4160

SEC. 4203. AUTHORIZATION OF APPROPRIATIONS. 33 USC 2623.

There are authorized to be appropriated $1,500,000 for each of the fiscal years 1989 and 1990, to carry out this title.

SEC. 4204. APPLICATIONS AND EFFECTIVE DATES.

(a) APPLICATIONS.—The Secretary shall make vessel applications for permits to be issued under section 4102 of this Act publicly available within 60 days after the date of enactment of this Act. 33 USC 2602 note.

(b) EFFECTIVE DATE FOR PERMITS.—Section 4102(a) of this Act is effective 240 days after the date of enactment of this Act. 33 USC 2602 note.

(c) EFFECTIVE DATE FOR HANDLING PRACTICES.—Section 4103 of this Act takes effect 60 days after the date of enactment of this Act. 33 USC 2603 note.

Approved November 18, 1988.

LEGISLATIVE HISTORY—S. 2030 (H.R. 5430):

HOUSE REPORTS: No. 100-1090 (Comm. of Conference).
SENATE REPORTS: No. 100-431 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 9, considered and passed Senate.
Oct. 3, 4, H.R. 5430 considered and passed House; proceedings vacated and S. 2030, amended, passed in lieu.
Oct. 18, Senate agreed to conference report.
Oct. 19, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Nov. 18, Presidential statement.

Public Law 100-365
100th Congress

102 STAT. 823

An Act

To amend chapter 25 of title 44, United States Code, to provide an authorization for the National Historical Publications and Records Commission programs, and for other purposes.

July 13, 1988
[S. 1856]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Historical Publications and Records Commission Amendments of 1988.
44 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Historical Publications and Records Commission Amendments of 1988".

SEC. 2. MEMBERSHIPS AND TERMS OF MEMBERS OF COMMISSION.

(a) MEMBERSHIP.—Section 2501 of title 44, United States Code, is amended to read as follows:

"§ 2501. Creation; composition; appointment and tenure; meetings

"(a) The National Historical Publications and Records Commission shall consist of 15 members as follows:

"(1) the following ex officio members:

"(A) the Archivist of the United States, who shall be chairman;

"(B) the Librarian of Congress (or an alternate designated by the Librarian);

"(C) one Senator, appointed by the President of the Senate;

"(D) one Representative, appointed by the Speaker of the House of Representatives;

"(E) one member of the judicial branch of the Government, appointed by the Chief Justice of the United States;

"(F) one representative of the Department of State to be appointed by the Secretary of State; and

"(G) one representative of the Department of Defense to be appointed by the Secretary of Defense;

"(2) one member from each of the following organizations, appointed by the governing council or board of the respective organization:

"(A) the American Historical Association;

"(B) the Organization of American Historians;

"(C) the Society of American Archivists;

"(D) the American Association for State and Local History;

"(E) the Association for Documentary Editing; and

"(F) the National Association for Government Archives and Records Administrators; and

"(3) two other members, outstanding in the fields of the social or physical sciences, the arts, or archival or library science, appointed by the President of the United States.

"(b)(1) The members appointed under subsection (a) shall be appointed for terms of 4 years, except that—

102 STAT. 824

"(A) a member appointed under subsection (a)(1)(D) shall be appointed for a term of 2 years; and

"(B) the Archivist and the Librarian of Congress are permanent ex officio members.

"(2) A member may continue to serve after the expiration of a term until a successor has been appointed, but not to exceed one year.

"(c) The Commission shall meet at least annually and at call of the Chairman.".

44 USC 2501 note.

(b) EFFECTIVE DATE AND IMPLEMENTATION OF STAGGERING OF TERMS.—The amendment made by this section shall be effective on January 1, 1989, and shall apply to the appointment of any member on the expiration of a predecessor's term as follows:

(1) The next two members appointed to such Commission after such date shall be appointed pursuant to section 2501(a)(2) (E) and (F) of title 44, United States Code, as amended by this section.

(2) Notwithstanding section 2501(b)(1), the first members appointed pursuant to section 2501(a)(2) (B) and (C) after January 1, 1991, shall be appointed for terms of one year.

SEC. 3. EXECUTIVE DIRECTOR, STAFF, TRANSPORTATION EXPENSES.

Section 2503 of title 44, United States Code, is amended to read as follows:

"§ 2503. Executive director, staff, transportation expenses

"(a) The Commission may appoint, without reference to chapter 51 of title 5, an executive director. The Chairman may appoint such other employees as may be necessary to carry out the purposes of this chapter.

"(b) Members of the Commission shall be allowed travel expenses (including per diem allowance in lieu of subsistence) in the same amount and to the same extent as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code.".

SEC. 4. DUTIES AND FUNCTIONS.

Section 2504 of title 44, United States Code, is amended to read as follows:

"§ 2504. Duties; authorization of grants for historical publications and records programs; authorization for appropriations

"(a) The Commission shall make plans, estimates, and recommendations for historical works and collections of sources it considers appropriate for preserving, publishing or otherwise recording at the public expense. The Chairman of the Commission shall transmit to the President and the Congress from time to time, and at least biennially, the plans, estimates, and recommendations developed and approved by the Commission.

"(b) The Commission shall cooperate with, assist and encourage appropriate Federal, State, and local agencies and nongovernmental institutions, societies, and individuals in collecting and preserving and, when it considers it desirable, in editing and publishing papers of outstanding citizens of the United States, and other documents as may be important for an understanding and appreciation of the history of the United States.

102 STAT. 825

"(c) The Commission may conduct institutes, training and educational programs, and recommend candidates for fellowships related to the activities of the Commission and may disseminate information about documentary sources through guides, directories, and other technical publications.

"(d) The Commission may recommend the expenditure of appropriated or donated funds for the collecting, describing, preserving, compiling and publishing (including microfilming and other forms of reproduction) of documentary sources significant to the history of the United States and for the activities described in subsection (c).

"(e) The Archivist of the United States may, within the limits of available appropriated and donated funds, make grants to State and local agencies and to nonprofit organizations, institutions, and

individuals, for those activities in subsection (d) after considering the advice and recommendations of the Commission.

"(f)(1) For the purposes specified in this section, there is hereby authorized to be appropriated to the National Historical Publications and Records Commission—

"(A) $6,000,000 for fiscal year 1989;

"(B) $8,000,000 for fiscal year 1990; and

"(C) $10,000,000 for each of the fiscal years 1991, 1992, and 1993.

"(2) Amounts appropriated under this subsection shall be available until expended when so provided in appropriation Acts.".

SEC. 5. CONFORMING AMENDMENT.

The table of contents for chapter 25 of title 44, United States Code, is amended to read as follows:

"Sec.
"2501. Creation; composition; appointment and tenure; vacancies; meetings.
"2502. Vacancies.
"2503. Executive director; staff; transportation expenses.
"2504. Duties; authorization of grants for historical publications and records programs; authorization for appropriations.
"2505. Special advisory committees; membership; reimbursement.
"2506. Records to be kept by grantees.".

Approved July 13, 1988.

LEGISLATIVE HISTORY—S. 1856 (H.R. 3933):

HOUSE REPORTS: No. 100-533 accompanying H.R. 3933 (Comm. on Government Operations).
SENATE REPORTS: No. 100-330 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 30, H.R. 3933 considered and passed House.
June 13, S. 1856 considered and passed Senate.
June 30, considered and passed House.

Public Law 100-383
100th Congress

102 STAT. 903

An Act

To implement recommendations of the Commission on Wartime Relocation and Internment of Civilians.

Aug. 10, 1988
[H.R. 442]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Human rights.

SECTION 1. PURPOSES.

50 USC app. 1989.

The purposes of this Act are to—

(1) acknowledge the fundamental injustice of the evacuation, relocation, and internment of United States citizens and permanent resident aliens of Japanese ancestry during World War II;

(2) apologize on behalf of the people of the United States for the evacuation, relocation, and internment of such citizens and permanent resident aliens;

(3) provide for a public education fund to finance efforts to inform the public about the internment of such individuals so as to prevent the recurrence of any similar event;

Public information.

(4) make restitution to those individuals of Japanese ancestry who were interned;

(5) make restitution to Aleut residents of the Pribilof Islands and the Aleutian Islands west of Unimak Island, in settlement of United States obligations in equity and at law, for—

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund $1,250,000,000, of which not more than $500,000,000 may be appropriated for any fiscal year. Any amounts appropriated pursuant to this section are authorized to remain available until expended.

50 USC app. 1989b-4.

SEC. 105. RESTITUTION.

102 STAT. 906

(a) LOCATION AND PAYMENT OF ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—Subject to paragraph (6), the Attorney General shall, subject to the availability of funds appropriated to the Fund for such purpose, pay out of the Fund to each eligible individual the sum of $20,000, unless such individual refuses, in the manner described in paragraph (4), to accept the payment.

(2) LOCATION OF ELIGIBLE INDIVIDUALS.—The Attorney General shall identify and locate, without requiring any application for payment and using records already in the possession of the United States Government, each eligible individual. The Attorney General should use funds and resources available to the Attorney General, including those described in subsection (c), to attempt to complete such identification and location within 12 months after the date of the enactment of this Act. Any eligible individual may notify the Attorney General that such individual is an eligible individual, and may provide documentation therefor. The Attorney General shall designate an officer or employee to whom such notification and documentation may be sent, shall maintain a list of all individuals who submit such notification and documentation, and shall, subject to the availability of funds appropriated for such purpose, encourage, through a public awareness campaign, each eligible individual to submit his or her current address to such officer or employee. To the extent that resources referred to in the second sentence of this paragraph are not sufficient to complete the identification and location of all eligible individuals, there are authorized to be appropriated such sums as may be necessary for such purpose. In any case, the identification and location of all eligible individuals shall be completed within 12 months after the appropriation of funds under the preceding sentence. Failure to be identified and located by the end of the 12-month period specified in the preceding sentence shall not preclude an eligible individual from receiving payment under this section.

Records. Public information.

Appropriation authorization.

(3) NOTICE FROM THE ATTORNEY GENERAL.—The Attorney General shall, when funds are appropriated to the Fund for payments to an eligible individual under this section, notify that eligible individual in writing of his or her eligibility for payment under this section. Such notice shall inform the eligible individual that—

Claims.

(A) acceptance of payment under this section shall be in full satisfaction of all claims against the United States arising out of acts described in section 108(2)(B), and

(B) each eligible individual who does not refuse, in the manner described in paragraph (4), to accept payment under this section within 18 months after receiving such written notice shall be deemed to have accepted payment for purposes of paragraph (5).

(4) EFFECT OF REFUSAL TO ACCEPT PAYMENT.—If an eligible individual refuses, in a written document filed with the Attorney General, to accept any payment under this section, the amount of such payment shall remain in the Fund and no payment may be made under this section to such individual at any time after such refusal.

(5) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—The acceptance of payment by an eligible individual under this section shall be in full satisfaction of all claims against the United States arising out of acts described in section 108(2)(B). This paragraph shall apply to any eligible

(A) injustices suffered and unreasonable hardships endured while those Aleut residents were under United States control during World War II;

Real property.

(B) personal property taken or destroyed by United States forces during World War II;

(C) community property, including community church property, taken or destroyed by United States forces during World War II; and

(D) traditional village lands on Attu Island not rehabilitated after World War II for Aleut occupation or other productive use;

(6) discourage the occurrence of similar injustices and violations of civil liberties in the future; and

(7) make more credible and sincere any declaration of concern by the United States over violations of human rights committed by other nations.

50 USC app. 1989a.

SEC. 2. STATEMENT OF THE CONGRESS.

(a) WITH REGARD TO INDIVIDUALS OF JAPANESE ANCESTRY.—The Congress recognizes that, as described by the Commission on Wartime Relocation and Internment of Civilians, a grave injustice was done to both citizens and permanent resident aliens of Japanese ancestry by the evacuation, relocation, and internment of civilians during World War II. As the Commission documents, these actions were carried out without adequate security reasons and without any acts of espionage or sabotage documented by the Commission, and were motivated largely by racial prejudice, wartime hysteria, and a failure of political leadership. The excluded individuals of Japanese ancestry suffered enormous damages, both material and intangible, and there were incalculable losses in education and job training, all of which resulted in significant human suffering for which appropriate compensation has not been made. For these fundamental violations of the basic civil liberties and constitutional rights of these individuals of Japanese ancestry, the Congress apologizes on behalf of the Nation.

102 STAT. 904

(b) WITH RESPECT TO THE ALEUTS.—The Congress recognizes that, as described by the Commission on Wartime Relocation and Internment of Civilians, the Aleut civilian residents of the Pribilof Islands and the Aleutian Islands west of Unimak Island were relocated during World War II to temporary camps in isolated regions of southeast Alaska where they remained, under United States control and in the care of the United States, until long after any potential danger to their home villages had passed. The United States failed to provide reasonable care for the Aleuts, and this resulted in widespread illness, disease, and death among the residents of the camps; and the United States further failed to protect Aleut personal and community property while such property was in its possession or under its control. The United States has not compensated the Aleuts adequately for the conversion or destruction of personal property, and the conversion or destruction of community property caused by the United States military occupation of Aleut villages during World War II. There is no remedy for injustices suffered by the Aleuts during World War II except an Act of Congress providing appropriate compensation for those losses which are attributable to the conduct of United States forces and other officials and employees of the United States.

Civil Liberties Act of 1988.

TITLE I—UNITED STATES CITIZENS OF JAPANESE ANCESTRY AND RESIDENT JAPANESE ALIENS

50 USC app. 1989b.

SEC 101. SHORT TITLE.

This title may be cited as the "Civil Liberties Act of 1988".

SEC. 102. REMEDIES WITH RESPECT TO CRIMINAL CONVICTIONS. 50 USC app. 1989b-1.

(a) REVIEW OF CONVICTIONS.—The Attorney General is requested to review any case in which an individual living on the date of the enactment of this Act was, while a United States citizen or permanent resident alien of Japanese ancestry, convicted of a violation of—

(1) Executive Order Numbered 9066, dated February 19, 1942;

(2) the Act entitled "An Act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving, or committing any act in military areas or zones", approved March 21, 1942 (56 Stat. 173); or

(3) any other Executive order, Presidential proclamation, law of the United States, directive of the Armed Forces of the United States, or other action taken by or on behalf of the United States or its agents, representatives, officers, or employees, respecting the evacuation, relocation, or internment of individuals solely on the basis of Japanese ancestry;

102 STAT. 905

on account of the refusal by such individual, during the evacuation, relocation, and internment period, to accept treatment which discriminated against the individual on the basis of the individual's Japanese ancestry.

(b) RECOMMENDATIONS FOR PARDONS.—Based upon any review under subsection (a), the Attorney General is requested to recommend to the President for pardon consideration those convictions which the Attorney General considers appropriate.

(c) ACTION BY THE PRESIDENT.—In consideration of the statement of the Congress set forth in section 2(a), the President is requested to offer pardons to any individuals recommended by the Attorney General under subsection (b).

SEC. 103. CONSIDERATION OF COMMISSION FINDINGS BY DEPARTMENTS AND AGENCIES. 50 USC app. 1989b-2.

(a) REVIEW OF APPLICATIONS BY ELIGIBLE INDIVIDUALS.—Each department and agency of the United States Government shall review with liberality, giving full consideration to the findings of the Commission and the statement of the Congress set forth in section 2(a), any application by an eligible individual for the restitution of any position, status, or entitlement lost in whole or in part because of any discriminatory act of the United States Government against such individual which was based upon the individual's Japanese ancestry and which occurred during the evacuation, relocation, and internment period.

(b) NO NEW AUTHORITY CREATED.—Subsection (a) does not create any authority to grant restitution described in that subsection, or establish any eligibility to apply for such restitution.

SEC. 104. TRUST FUND. 50 USC app. 1989b-3.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States the Civil Liberties Public Education Fund, which shall be administered by the Secretary of the Treasury.

(b) INVESTMENT OF AMOUNTS IN THE FUND.—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code.

(c) USES OF THE FUND.—Amounts in the Fund shall be available only for disbursement by the Attorney General under section 105 and by the Board under section 106.

(d) TERMINATION.—The Fund shall terminate not later than the earlier of the date on which an amount has been expended from the Fund which is equal to the amount authorized to be appropriated to the Fund by subsection (e), and any income earned on such amount, or 10 years after the date of the enactment of this Act. If all of the amounts in the Fund have not been expended by the end of that 10-year period, investments of amounts in the Fund shall be liquidated and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

day period referred to in paragraph (1)(B) or (2) of subsection (a) of this section, if the nomination of such person is rejected by the Senate or is withdrawn.".

Approved August 17, 1988.

LEGISLATIVE HISTORY—H.R. 3932 (S. 2037):

HOUSE REPORTS: No. 100-532 (Comm. on Government Operations).
SENATE REPORTS: No. 100-317 accompanying S. 2037 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 31, considered and passed House.
Apr. 26, S. 2037 considered and passed Senate.
Apr. 28, H.R. 3932 considered and passed Senate, amended, in lieu of S. 2037.
July 26, House concurred in Senate amendment with an amendment.
Aug. 2, Senate concurred in House amendment.

Public Law 100-504
100th Congress

102 STAT. 2515

An Act

To amend the Inspector General Act of 1978 to establish offices of inspector general in certain departments, and for other purposes.

Oct. 18, 1988
[S. 908]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—INSPECTOR GENERAL ACT AMENDMENTS

Inspector General Act Amendments of 1988.
Government organization and employees.
5 USC app.

SEC. 101. SHORT TITLE.

This title may be cited as the "Inspector General Act Amendments of 1988".

SEC. 102. ESTABLISHMENT OF OFFICES OF INSPECTOR GENERAL.

5 USC app.

(a) PURPOSE.—Section 2(1) of the Inspector General Act of 1978 (Public Law 95-452; 5 U.S.C. App. 3) is amended to read as follows:

"(1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2);".

(b) TECHNICAL AMENDMENT.—The last clause of section 2 is amended by striking out "thereby" and inserting in lieu thereof "there".

(c) ADDITION OF DEPARTMENTS OF ENERGY, HEALTH AND HUMAN SERVICES, JUSTICE AND TREASURY, FEDERAL EMERGENCY MANAGEMENT AGENCY, NUCLEAR REGULATORY COMMISSION, OFFICE OF PERSONNEL MANAGEMENT, AND RAILROAD RETIREMENT BOARD TO LIST OF COVERED ESTABLISHMENTS.—Section 11 of such Act is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

5 USC app.

"(1) the term 'head of the establishment' means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs; the Director of the Federal Emergency Management Agency, the Office of Personnel Management or the United States Information Agency; the Chairman of the Nuclear Regulatory Commission or the Railroad Retirement Board; as the case may be;

(f) CLARIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Amounts paid to an eligible individual under this section—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

50 USC app. 1989b-5.

SEC. 106. BOARD OF DIRECTORS OF THE FUND.

(a) ESTABLISHMENT.—There is established the Civil Liberties Public Education Fund Board of Directors, which shall be responsible for making disbursements from the Fund in the manner provided in this section.

(b) USES OF FUND.—The Board may make disbursements from the Fund only—

Research and development. Education. Public information.

(1) to sponsor research and public educational activities, and to publish and distribute the hearings, findings, and recommendations of the Commission, so that the events surrounding the evacuation, relocation, and internment of United States citizens and permanent resident aliens of Japanese ancestry will be remembered, and so that the causes and circumstances of this and similar events may be illuminated and understood; and

(2) for reasonable administrative expenses of the Board, including expenses incurred under subsections (c)(3), (d), and (e).

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Board shall be composed of 9 members appointed by the President, by and with the advice and consent of the Senate, from individuals who are not officers or employees of the United States Government.

(2) TERMS.—(A) Except as provided in subparagraphs (B) and (C), members shall be appointed for terms of 3 years.

(B) Of the members first appointed—

(i) 5 shall be appointed for terms of 3 years, and

(ii) 4 shall be appointed for terms of 2 years,

as designated by the President at the time of appointment.

(C) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of such member's term until such member's successor has taken office. No individual may be appointed as a member for more than 2 consecutive terms.

(3) COMPENSATION.—Members of the Board shall serve without pay, except that members of the Board shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the

102 STAT. 909

Board, in the same manner as persons employed intermittently in the United States Government are allowed expenses under section 5703 of title 5, United States Code.

(4) QUORUM.—5 members of the Board shall constitute a quorum but a lesser number may hold hearings.

(5) CHAIR.—The Chair of the Board shall be elected by the members of the Board.

(d) DIRECTOR AND STAFF.—

(1) DIRECTOR.—The Board shall have a Director who shall be appointed by the Board.

(2) ADDITIONAL STAFF.—The Board may appoint and fix the pay of such additional staff as it may require.

(3) APPLICABILITY OF CIVIL SERVICE LAWS.—The Director and the additional staff of the Board may be appointed without regard to section 5311(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without

regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Board may not exceed a rate equivalent to the minimum rate of basic pay payable for GS–18 of the General Schedule under section 5332(a) of such title.

(e) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Board on a reimbursable basis such administrative support services as the Board may request.

(f) GIFTS AND DONATIONS.—The Board may accept, use, and dispose of gifts or donations of services or property for purposes authorized under subsection (b).

(g) ANNUAL REPORTS.—Not later than 12 months after the first meeting of the Board and every 12 months thereafter, the Board shall transmit to the President and to each House of the Congress a report describing the activities of the Board.

(h) TERMINATION.—90 days after the termination of the Fund, the Board shall terminate and all obligations of the Board under this section shall cease.

SEC. 107. DOCUMENTS RELATING TO THE INTERNMENT.

50 USC app. 1989b-6.

(a) PRESERVATION OF DOCUMENTS IN NATIONAL ARCHIVES.—All documents, personal testimony, and other records created or received by the Commission during its inquiry shall be kept and maintained by the Archivist of the United States who shall preserve such documents, testimony, and records in the National Archives of the United States. The Archivist shall make such documents, testimony, and records available to the public for research purposes.

Public information

(b) PUBLIC AVAILABILITY OF CERTAIN RECORDS OF THE HOUSE OF REPRESENTATIVES.—(1) The Clerk of the House of Representatives is authorized to permit the Archivist of the United States to make available for use records of the House not classified for national security purposes, which have been in existence for not less than thirty years, relating to the evacuation, relocation, and internment of individuals during the evacuation, relocation, and internment period.

(2) This subsection is enacted as an exercise of the rulemaking power of the House of Representatives, but is applicable only with respect to the availability of records to which it applies, and supersedes other rules only to the extent that the time limitation established by this section with respect to such records is specifically inconsistent with such rules, and is enacted with full recognition of the constitutional right of the House to change its rules at any time, in the same manner and to the same extent as in the case of any other rule of the House.

102 STAT. 910

SEC. 108. DEFINITIONS.

50 USC app. 1989b-7.

For the purposes of this title—

(1) the term "evacuation, relocation, and internment period" means that period beginning on December 7, 1941, and ending on June 30, 1946;

(2) the term "eligible individual" means any individual of Japanese ancestry who is living on the date of the enactment of this Act and who, during the evacuation, relocation, and internment period—

(A) was a United States citizen or a permanent resident alien; and

(B)(i) was confined, held in custody, relocated, or otherwise deprived of liberty or property as a result of—

(I) Executive Order Numbered 9066, dated February 19, 1942;

(II) the Act entitled "An Act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving, or committing any act in military areas or zones", approved March 21, 1942 (56 Stat. 173); or

(III) any other Executive order, Presidential proclamation, law of the United States, directive of the Armed Forces of the United States, or other action taken by or on behalf of the United States or its agents, representatives, officers, or employees, respecting the evacuation, relocation, or internment of individuals solely on the basis of Japanese ancestry; or

(ii) was enrolled on the records of the United States Government during the period beginning on December 7, 1941, and ending on June 30, 1946, as being in a prohibited military zone;

except that the term "eligible individual" does not include any individual who, during the period beginning on December 7, 1941, and ending on September 2, 1945, relocated to a country while the United States was at war with that country;

(3) the term "permanent resident alien" means an alien lawfully admitted into the United States for permanent residence;

(4) the term "Fund" means the Civil Liberties Public Education Fund established in section 104;

(5) the term "Board" means the Civil Liberties Public Education Fund Board of Directors established in section 106; and

(6) the term "Commission" means the Commission on Wartime Relocation and Internment of Civilians, established by the Commission on Wartime Relocation and Internment of Civilians Act (Public Law 96-317, 50 U.S.C. App. 1981 note).

50 USC app. 1989b-8. Contracts.

SEC. 109. COMPLIANCE WITH BUDGET ACT.

No authority under this title to enter into contracts or to make payments shall be effective in any fiscal year except to such extent and in such amounts as are provided in advance in appropriations Acts. In any fiscal year, total benefits conferred by this title shall be limited to an amount not in excess of the appropriations for such fiscal year. Any provision of this title which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal year 1989 and thereafter.

102 STAT. 911

Effective date.

TITLE II—ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION

Aleutian and Pribilof Islands Restitution Act. Alaska.

50 USC app. 1989c.

SEC. 201. SHORT TITLE.

This title may be cited as the "Aleutian and Pribilof Islands Restitution Act".

50 USC app. 1989c-1.

SEC. 202. DEFINITIONS.

As used in this title—

(1) the term "Administrator" means the person appointed by the Secretary under section 204;

(2) the term "affected Aleut villages" means the surviving Aleut villages of Akutan, Atka, Nikolski, Saint George, Saint Paul, and Unalaska, and the Aleut village of Attu, Alaska;

(3) the term "Association" means the Aleutian/Pribilof Islands Association, Inc., a nonprofit regional corporation established for the benefit of the Aleut people and organized under the laws of the State of Alaska;

(4) the term "Corporation" means the Aleut Corporation, a for-profit regional corporation for the Aleut region organized under the laws of the State of Alaska and established under section 7 of the Alaska Native Claims Settlement Act (Public Law 92-203; 43 U.S.C. 1606);

(5) the term "eligible Aleut" means any Aleut living on the date of the enactment of this Act—

(A) who, as a civilian, was relocated by authority of the United States from his or her home village on the Pribilof

Islands or the Aleutian Islands west of Unimak Island to an internment camp, or other temporary facility or location, during World War II; or

(B) who was born while his or her natural mother was subject to such relocation;

(6) the term "Secretary" means the Secretary of the Interior;

(7) the term "Fund" means the Aleutian and Pribilof Islands Restitution Fund established in section 203; and

(8) the term "World War II" means the period beginning on December 7, 1941, and ending on September 2, 1945.

SEC. 203. ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION FUND.

50 USC app. 1989c-2.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States the Aleutian and Pribilof Islands Restitution Fund, which shall be administered by the Secretary. The Fund shall consist of amounts appropriated to it pursuant to this title.

(b) REPORT.—The Secretary shall report to the Congress, not later than 60 days after the end of each fiscal year, on the financial condition of the Fund, and the results of operations of the Fund, during the preceding fiscal year and on the expected financial condition and operations of the Fund during the current fiscal year.

(c) INVESTMENT.—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code.

102 STAT. 912

(d) TERMINATION.—The Secretary shall terminate the Fund 3 years after the date of the enactment of this Act, or 1 year following disbursement of all payments from the Fund, as authorized by this title, whichever occurs later. On the date the Fund is terminated, all investments of amounts in the Fund shall be liquidated by the Secretary and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

Securities.

SEC. 204. APPOINTMENT OF ADMINISTRATOR.

50 USC app. 1989c-3.

Contracts.

As soon as practicable after the date of the enactment of this Act, the Secretary shall offer to undertake negotiations with the Association, leading to the execution of an agreement with the Association to serve as Administrator under this title. The Secretary may appoint the Association as Administrator if such agreement is reached within 90 days after the date of the enactment of this title. If no such agreement is reached within such period, the Secretary shall appoint another person as Administrator under this title, after consultation with leaders of affected Aleut villages and the Corporation.

SEC. 205. COMPENSATION FOR COMMUNITY LOSSES.

50 USC app. 1989c-4.

(a) IN GENERAL.—Subject to the availability of funds appropriated to the Fund, the Secretary shall make payments from the Fund, in accordance with this section, as restitution for certain Aleut losses sustained in World War II.

(b) TRUST.—

(1) ESTABLISHMENT.—The Secretary shall, subject to the availability of funds appropriated for this purpose, establish a trust for the purposes set forth in this section. Such trust shall be established pursuant to the laws of the State of Alaska, and shall be maintained and operated by not more than seven trustees, as designated by the Secretary. Each affected Aleut village may submit to the Administrator a list of three prospective trustees. The Secretary, after consultation with the Administrator, affected Aleut villages, and the Corporation, shall designate not more than seven trustees from such lists as submitted.

(2) ADMINISTRATION OF TRUST.—The trust established under this subsection shall be administered in a manner that is consistent with the laws of the State of Alaska, and as prescribed by the Secretary, after consultation with representatives of eligible Aleuts, the residents of affected Aleut villages, and the Administrator.

(c) ACCOUNTS FOR THE BENEFIT OF ALEUTS.—

(1) IN GENERAL.—The Secretary shall deposit in the trust such sums as may be appropriated for the purposes set forth in this subsection. The trustees shall maintain and operate 8 independent and separate accounts in the trust for purposes of this subsection, as follows:

(A) One account for the independent benefit of the wartime Aleut residents of Attu and their descendants.

(B) Six accounts for the benefit of the 6 surviving affected Aleut villages, one each for the independent benefit of Akutan, Atka, Nikolski, Saint George, Saint Paul, and Unalaska, respectively.

102 STAT. 913

(C) One account for the independent benefit of those Aleuts who, as determined by the Secretary, upon the advice of the trustees, are deserving but will not benefit directly from the accounts established under subparagraphs (A) and (B).

The trustees shall credit to the account described in subparagraph (C) an amount equal to 5 percent of the principal amount deposited by the Secretary in the trust under this subsection. Of the remaining principal amount, an amount shall be credited to each account described in subparagraphs (A) and (B) which bears the same proportion to such remaining principal amount as the Aleut civilian population, as of June 1, 1942, of the village with respect to which such account is established bears to the total civilian Aleut population on such date of all affected Aleut villages.

(2) USES OF ACCOUNTS.—The trustees may use the principal, accrued interest, and other earnings of the accounts maintained under paragraph (1) for—

Aged persons. Handicapped persons. Education.

(A) the benefit of elderly, disabled, or seriously ill persons on the basis of special need;

(B) the benefit of students in need of scholarship assistance;

Historic preservation.

(C) the preservation of Aleut cultural heritage and historical records;

Community development.

(D) the improvement of community centers in affected Aleut villages; and

(E) other purposes to improve the condition of Aleut life, as determined by the trustees.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to the Fund to carry out this subsection.

(d) COMPENSATION FOR DAMAGED OR DESTROYED CHURCH PROPERTY.—

(1) INVENTORY AND ASSESSMENT OF PROPERTY.—The Administrator shall make an inventory and assessment of real and personal church property of affected Aleut villages which was damaged or destroyed during World War II. In making such inventory and assessment, the Administrator shall consult with the trustees of the trust established under subsection (b), residents of affected Aleut villages, affected church members and leaders, and the clergy of the churches involved. Within 1 year after the date of the enactment of this Act, the Administrator shall submit such inventory and assessment, together with an estimate of the present replacement value of lost or destroyed furnishings and artifacts, to the Secretary.

Records.

(2) REVIEW BY THE SECRETARY; DEPOSIT IN THE TRUST.—The Secretary shall review the inventory and assessment provided under paragraph (1), and shall deposit in the trust established under subsection (b) an amount reasonably calculated by the Secretary to compensate affected Aleut villages for church property lost, damaged, or destroyed during World War II.

(3) DISTRIBUTION OF COMPENSATION.—The trustees shall distribute the amount deposited in the trust under paragraph (2) for the benefit of the churches referred to in this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund $1,400,000 to carry out this subsection. 102 STAT. 914

(c) ADMINISTRATIVE AND LEGAL EXPENSES.—

(1) REIMBURSEMENT FOR EXPENSES.—The Secretary shall reimburse the Administrator, not less often than annually, for reasonable and necessary administrative and legal expenses in carrying out the Administrator's responsibilities under this title.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out this subsection.

SEC. 206. INDIVIDUAL COMPENSATION OF ELIGIBLE ALEUTS. 50 USC app. 1989c-5.

(a) PAYMENTS TO ELIGIBLE ALEUTS.—In addition to payments made under section 205, the Secretary shall, in accordance with this section, make per capita payments out of the Fund to eligible Aleuts. The Secretary shall pay, subject to the availability of funds appropriated to the Fund for such payments, to each eligible Aleut the sum of $12,000.

(b) ASSISTANCE OF ATTORNEY GENERAL.—The Secretary may request the Attorney General to provide reasonable assistance in locating eligible Aleuts residing outside the affected Aleut villages, and upon such request, the Attorney General shall provide such assistance. In so doing, the Attorney General may use available facilities and resources of the International Committee of the Red Cross and other organizations.

(c) ASSISTANCE OF ADMINISTRATOR.—The Secretary may request the assistance of the Administrator in identifying and locating eligible Aleuts for purposes of this section.

(d) CLARIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Amounts paid to an eligible Aleut under this section—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering, and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

(e) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—The payment to an eligible Aleut under this section shall be in full satisfaction of all claims against the United States arising out of the relocation described in section 202(5).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out this section.

SEC. 207. ATTU ISLAND RESTITUTION PROGRAM. Public lands. National Wildlife Refuge System. Conservation. 50 USC app. 1989c-6.

(a) PURPOSE OF SECTION.—In accordance with section (3)(c) of the Wilderness Act (78 Stat. 892; 16 U.S.C. 1132(c)), the public lands on Attu Island, Alaska, within the National Wildlife Refuge System have been designated as wilderness by section 702(1) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417; 16 U.S.C. 1132 note). In order to make restitution for the loss of traditional Aleut lands and village properties on Attu Island, while preserving the present designation of Attu Island lands as part of the National Wilderness Preservation System, compensation to the Aleut people, in lieu of the conveyance of Attu Island, shall be provided in accordance with this section.

(b) ACREAGE DETERMINATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall, in accordance 102 STAT. 915 with this subsection, determine the total acreage of land on Attu Island, Alaska, that, at the beginning of World War II, was subject to traditional use by the Aleut villagers of that island for subsistence and other purposes. In making such acreage determination, the Secretary shall establish a base acreage of not less than 35,000 acres within that part of eastern Attu Island traditionally used by the

Aleut people, and shall, from the best available information, including information that may be submitted by representatives of the Aleut people, identify any such additional acreage on Attu Island that was subject to such use. The combination of such base acreage and such additional acreage shall constitute the acreage determination upon which payment to the Corporation under this section is based. The Secretary shall promptly notify the Corporation of the results of the acreage determination made under this subsection.

(c) VALUATION.—

(1) DETERMINATION OF VALUE.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall determine the value of the Attu Island acreage determined under subsection (b), except that—

(A) such acreage may not be valued at less than $350 per acre nor more than $500 per acre; and

(B) the total valuation of all such acreage may not exceed $15,000,000.

(2) FACTORS IN MAKING DETERMINATION.—In determining the value of the acreage under paragraph (1), the Secretary shall take into consideration such factors as the Secretary considers appropriate, including—

(A) fair market value;

(B) environmental and public interest value; and

(C) established precedents for valuation of comparable wilderness lands in the State of Alaska.

(3) NOTIFICATION OF DETERMINATION; APPEAL.—The Secretary shall promptly notify the Corporation of the determination of value made under this subsection, and such determination shall constitute the final determination of value unless the Corporation, within 30 days after the determination is made, appeals the determination to the Secretary. If such appeal is made, the Secretary shall, within 30 days after the appeal is made, review the determination in light of the appeal, and issue a final determination of the value of that acreage determined to be subject to traditional use under subsection (b).

(d) IN LIEU COMPENSATION PAYMENT.—

(1) PAYMENT.—The Secretary shall pay, subject to the availability of funds appropriated for such purpose, to the Corporation, as compensation for the Aleuts' loss of lands on Attu Island, the full amount of the value of the acreage determined under subsection (c), less the value (as determined under subsection (c)) of any land conveyed under subsection (e).

(2) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—The payment made under paragraph (1) shall be in full satisfaction of any claim against the United States for the loss of traditional Aleut lands and village properties on Attu Island.

(e) VILLAGE SITE CONVEYANCE.—The Secretary may convey to the Corporation all right, title, and interest of the United States to the surface estate of the traditional Aleut village site on Attu Island,
102 STAT. 916 Alaska (consisting of approximately 10 acres) and to the surface estate of a parcel of land consisting of all land outside such village that is within 660 feet of any point on the boundary of such village. The conveyance may be made under the authority contained in section 14(h)(1) of the Alaska Native Claims Settlement Act (Public Law 92-203; 43 U.S.C. 1613(h)(1)), except that after the enactment of this Act, no site on Attu Island, Alaska, other than such traditional Aleut village site and such parcel of land, may be conveyed to the Corporation under such section 14(h)(1).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 to the Secretary to carry out this section.

Contracts.
50 USC app. 1989c-7.

SEC. 208. COMPLIANCE WITH BUDGET ACT.

No authority under this title to enter into contracts or to make payments shall be effective in any fiscal year except to such extent

and in such amounts as are provided in advance in appropriations Acts. In any fiscal year, the Secretary, with respect to—

(1) the Fund established under section 203,

(2) the trust established under section 205(b), and

(3) the provisions of sections 206 and 207,

shall limit the total benefits conferred to an amount not in excess of the appropriations for such fiscal year. Any provision of this title which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal year 1989 and thereafter.

Effective date.

SEC. 209. SEVERABILITY.

50 USC app. 1989c–8.

If any provision of this title, or the application of such provision to any person or circumstance, is held invalid, the remainder of this title and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected by such invalidation.

TITLE III—TERRITORY OR PROPERTY CLAIMS AGAINST UNITED STATES

SEC. 301. EXCLUSION OF CLAIMS.

Mexico. Indians. 50 USC app. 1989d.

Notwithstanding any other provision of law or of this Act, nothing in this Act shall be construed as recognition of any claim of Mexico or any other country or any Indian tribe (except as expressly provided in this Act with respect to the Aleut tribe of Alaska) to any territory or other property of the United States, nor shall this Act be construed as providing any basis for compensation in connection with any such claim.

Approved August 10, 1988.

LEGISLATIVE HISTORY—H.R. 442:

HOUSE REPORTS: No. 100-278 (Comm. on the Judiciary) and No. 100-785 (Comm. of Conference).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Sept. 17, considered and passed House.
Vol. 134 (1988): Apr. 20, considered and passed Senate, amended.
July 27, Senate agreed to conference report.
Aug. 4, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Aug. 10, Presidential remarks.

Public Law 100-398
100th Congress

102 STAT. 985

An Act

To amend the Presidential Transition Act of 1963 to provide for a more orderly transfer of executive power in connection with the expiration of the term of office of a President.

Aug. 17, 1988
[H.R. 3932]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Presidential Transitions Effectiveness Act. 3 USC 102 note.

This Act may be cited as the "Presidential Transitions Effectiveness Act".

SEC. 2. PRESIDENTIAL TRANSITION AUTHORIZATIONS.

(a) AMENDMENTS.—Section 5 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by redesignating such section as section 6;
(2) by inserting before such section the following heading:

"AUTHORIZATION OF APPROPRIATIONS";

(3) by inserting "(a)" after the section designation;
(4) in paragraph (1), by striking out "$2,000,000" and inserting in lieu thereof "$3,500,000";
(5) in paragraph (2), by striking out "$1,000,000" and inserting in lieu thereof "$1,500,000";
(6) in paragraph (2), by inserting before the period at the end thereof the following: ", except that any amount appropriated pursuant to this paragraph in excess of $1,250,000 shall be returned to the general fund of the Treasury in the case where the former Vice President is the incumbent President"; and
(7) by adding at the end thereof the following new subsection:

"(b) The amounts authorized to be appropriated under subsection (a) shall be increased by an inflation adjusted amount, based on increases in the cost of transition services and expenses which have occurred in the years following the most recent Presidential transition, and shall be included in the proposed appropriation transmitted by the President under the last sentence of subsection (a).".

3 USC 102 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) of this section shall be effective upon enactment, except that the amendment made by paragraph (7) of such subsection shall take effect on October 1, 1989.

SEC. 3. PRESIDENTIAL TRANSITION FINANCING AND PERSONNEL.

The Presidential Transition Act of 1963 (3 U.S.C. 102 note) is further amended by inserting after section 4 the following new section:

102 STAT. 986

"DISCLOSURES OF FINANCING AND PERSONNEL; LIMITATION ON ACCEPTANCE OF DONATIONS

3 USC 102 note.

"SEC. 5. (a)(1) The President-elect and Vice-President-elect (as a condition for receiving services under section 3 and for funds provided under section 6(a)(1)) shall disclose to the Administrator the date of contribution, source, amount, and expenditure thereof of all money, other than funds from the Federal Government, and including currency of the United States and of any foreign nation, checks, money orders, or any other negotiable instruments payable on demand, received either before or after the date of the general elections for use in the preparation of the President-elect or Vice-President-elect for the assumption of official duties as President or Vice President.

"(2) The President-elect and Vice-President-elect (as a condition for receiving such services and funds) shall make available to the Administrator and the Comptroller General all information concerning such contributions as the Administrator or Comptroller General may require for purposes of auditing both the public and private funding used in the activities authorized by this Act.

"(3) Disclosures made under paragraph (1) shall be—

Reports.

"(A) in the form of a report to the Administrator within 30 days after the inauguration of the President-elect as President and the Vice-President-elect as Vice President; and

"(B) made available to the public by the Administrator upon receipt by the Administrator.

"(b)(1) The President-elect and Vice-President-elect (as a condition for receiving services provided under section 3 and funds provided under section 6(a)(1)) shall make available to the public—

"(A) the names and most recent employment of all transition personnel (full-time or part-time, public or private, or volunteer)

who are members of the President-elect or Vice-President-elect's Federal department or agency transition teams; and

"(B) information regarding the sources of funding which support the transition activities of each transition team member.

"(2) Disclosures under paragraph (1) shall be made public before the initial transition team contact with a Federal department or agency and shall be updated as necessary.

"(c) The President-elect and Vice-President-elect (as a condition for receiving services under section 3 and for funds provided under section 6(a)(1)) shall not accept more than $5,000 from any person, organization, or other entity for purposes of carrying out activities authorized by this Act.".

SEC. 4. LIMITATION ON EXPENDITURES OF CERTAIN FUNDS.

(a) USE OF AIRCRAFT.—Section 3(a)(4) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by inserting "(A)" after "(4)";

(2) by adding at the end thereof the following new subparagraph:

"(B) When requested by the President-elect or Vice-President-elect or their designee, and approved by the President, Government aircraft may be provided for transition purposes on a reimbursable basis; when requested by the President-elect, the Vice-President-elect, or the designee of the President-elect or Vice-President-elect, aircraft may be chartered for transition purposes; and any collections from the Secret Service, press, or others occupying space on chartered aircraft shall be deposited to the credit of the appropriations made under section 6 of this Act;". 102 STAT. 987

(b) DURATION OF EXPENDITURES.—Section 3(b) of the Presidential Transition Act of 1963 is amended to read as follows: 3 USC 102 note.

"(b) The Administrator may not expend funds for the provision of services and facilities under section 3 of this Act in connection with any obligations incurred by the President-elect or Vice-President elect—

"(1) before the day following the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code; or

"(2) after 30 days after the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.".

(c) COMMENCEMENT OF EXPENDITURES.—Section 4 of the Presidential Transition Act of 1963 is amended by striking out "six months from the date of the expiration" and inserting "seven months from 30 days before the date of the expiration". 3 USC 102 note.

SEC. 5. DISCLOSURE OF IN-KIND CONTRIBUTIONS TO 1988-1989 TRANSITION. 3 USC 102 note.

(a) DISCLOSURE AS CONDITION OF RECEIPT OF FUNDS.—The President-elect and Vice-President-elect (as a condition for receiving services under section 3 and for funds provided under section 6(a)(1) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) shall provide an estimate to the Administrator of General Services of the aggregate value of in-kind contributions made during the period beginning on November 9, 1988, through January 20, 1989, received for transition activities for—

(1) transportation;

(2) hotel and other accommodations;

(3) suitable office space; and

(4) furniture, furnishings, office machines and equipment, and office supplies.

(b) FORM AND AVAILABILITY OF ESTIMATES.—The estimates made under subsection (a) shall be—

Reports.

(1) in the form of a report to the Administrator of General Services within 90 days after January 20, 1989; and

(2) made available to the public by the Administrator upon receipt by the Administrator.

SEC. 6. TRAVEL AND TRANSPORTATION EXPENSES.

Section 5723 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking out "or (B)" and inserting "or (C)";

(2) in subsection (a), by adding at the end thereof: "In the case of an appointee described in paragraph (1) who has performed transition activities under section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), the provisions of paragraphs (1) and (2) may apply to travel and transportation expenses from the place of residence of such appointee (at the time of relocation following the most recent general elections held to determine the electors of the President) to the assigned duty station of such appointee."; and

(3) in subsection (c), by adding at the end thereof the following: "In the case of an appointee described in subsection (a)(1) who has performed transition activities under section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), the travel or transportation shall take place at any time after the most recent general elections held to determine the electors of the President.".

102 STAT. 988

SEC. 7. EXECUTIVE AGENCY VACANCIES.

(a) APPLICATION OF VACANCY PROVISIONS TO EXECUTIVE AGENCIES.—(1) Section 3345 of title 5, United States Code, is amended by striking out "Executive department" and inserting in lieu thereof "Executive agency (other than the General Accounting Office)".

(2) The heading for section 3345 of title 5, United States Code, is amended to read as follows:

"§ 3345. Details; to office of head of Executive agency or military department".

(3) The table of section headings for chapter 33 of title 5, United States Code, is amended by amending the item relating to section 3345 to read as follows:

"3345. Details; to office of head of Executive agency or military department.".

(b) EXTENSION OF TIME FOR INTERIM SERVICE.—Section 3348 of title 5, United States Code, is amended to read as follows:

"§ 3348. Details; limited in time

"(a) A vacancy caused by death or resignation may be filled temporarily under section 3345, 3346, or 3347 of this title for not more than 120 days, except that—

"(1) if a first or second nomination to fill such vacancy has been submitted to the Senate, the position may be filled temporarily under section 3345, 3346, or 3347 of this title—

"(A) until the Senate confirms the nomination; or

"(B) until 120 days after the date on which either the Senate rejects the nomination or the nomination is withdrawn; or

"(2) if the vacancy occurs during an adjournment of the Congress sine die, the position may be filled temporarily until 120 days after the Congress next convenes, subject thereafter to the provisions of paragraph (1) of this subsection.

"(b) Any person filling a vacancy temporarily under section 3345, 3346, or 3347 of this title whose nomination to fill such vacancy has been submitted to the Senate may not serve after the end of the 120-

"(2) the term 'establishment' means the Department of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, or the Treasury; the Agency for International Development, the Environmental
102 STAT. 2516 Protection Agency, the Federal Emergency Management Agency, the General Services Administration, the National Aeronautics and Space Administration, the Nuclear Regulatory Commission, the Office of Personnel Management, the Railroad Retirement Board, the Small Business Administration, the United States Information Agency, or the Veterans' Administration; as the case may be;".

(d) TRANSFERS OF EXISTING AUDIT AND INVESTIGATION UNITS.—
5 USC app. Section 9(a)(1) of such Act is amended—

(1) by striking out subparagraph (I), relating to the Community Services Administration;

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (G) and (H), respectively;

(3) by redesignating subparagraphs (G) and (H) as subparagraphs (J) and (K), respectively;

(4) by redesignating subparagraph (J) as subparagraph (M);

(5) by redesignating subparagraphs (K) and (L) as subparagraphs (O) and (P), respectively;

(6) by redesignating subparagraphs (M) and (N) as subparagraphs (T) and (U), respectively;

(7) by inserting after subparagraph (D) the following new subparagraphs:

"(E) of the Department of Energy, the Office of Inspector General (as established by section 208 of the Department of Energy Organization Act);

"(F) of the Department of Health and Human Services, the Office of Inspector General (as established by title II of Public Law 94-505);";

(8) by inserting after subparagraph (H) (as redesignated by paragraph (2) of this subsection) the following new subparagraph:

"(I) of the Department of Justice, the offices of that Department referred to as (i) the 'Audit Staff, Justice Management Division', (ii) the 'Policy and Procedures Branch, Office of the Comptroller, Immigration and Naturalization Service', the 'Office of Professional Responsibility, Immigration and Naturalization Service', and the 'Office of Program Inspections, Immigration and Naturalization Service', (iii) the 'Office of Internal Inspection, United States Marshals Service', (iv) the 'Financial Audit Section, Office of Financial Management, Bureau of Prisons' and the 'Office of Inspections, Bureau of Prisons', and (v) from the Drug Enforcement Administration, that portion of the 'Office of Inspections' which is engaged in internal audit activities, and that portion of the 'Office of Planning and Evaluation' which is engaged in program review activities;";

(9) by inserting after subparagraph (K) (as redesignated by paragraph (3) of this subsection) the following new subparagraph:

"(L) of the Department of the Treasury, the office of that department referred to as the 'Office of Inspector General', and, notwithstanding any other provision of law, that portion of each of the offices of that department referred to as the 'Office of Internal Affairs, Bureau of Alcohol, Tobacco, and Firearms', the 'Office of Internal Affairs, United States
102 STAT. 2517 Customs Service', and the 'Office of Inspections, United States Secret Service' which is engaged in internal audit activities;";

individual who does not refuse, in the manner described in paragraph (4), to accept payment under this section within 18 months after receiving the notification from the Attorney General referred to in paragraph (3). 102 STAT. 907

(6) EXCLUSION OF CERTAIN INDIVIDUALS.—No payment may be made under this section to any individual who, after September 1, 1987, accepts payment pursuant to an award of a final judgment or a settlement on a claim against the United States for acts described in section 108(2)(B), or to any surviving spouse, child, or parent of such individual to whom paragraph (6) applies. Claims.

(7) PAYMENTS IN THE CASE OF DECEASED PERSONS.—(A) In the case of an eligible individual who is deceased at the time of payment under this section, such payment shall be made only as follows:

(i) If the eligible individual is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

(ii) If there is no surviving spouse described in clause (i), such payment shall be made in equal shares to all children of the eligible individual who are living at the time of payment.

(iii) If there is no surviving spouse described in clause (i) and if there are no children described in clause (ii), such payment shall be made in equal shares to the parents of the eligible individual who are living at the time of payment.

If there is no surviving spouse, children, or parents described in clauses (i), (ii), and (iii), the amount of such payment shall remain in the Fund, and may be used only for the purposes set forth in section 106(b).

(B) After the death of an eligible individual, this subsection and subsections (c) and (f) shall apply to the individual or individuals specified in subparagraph (A) to whom payment under this section will be made, to the same extent as such subsections apply to the eligible individual.

(C) For purposes of this paragraph—

(i) the "spouse" of an eligible individual means a wife or husband of an eligible individual who was married to that eligible individual for at least 1 year immediately before the death of the eligible individual;

(ii) a "child" of an eligible individual includes a recognized natural child, a stepchild who lived with the eligible individual in a regular parent-child relationship, and an adopted child; and

(iii) a "parent" of an eligible individual includes fathers and mothers through adoption.

(b) ORDER OF PAYMENTS.—The Attorney General shall endeavor to make payments under this section to eligible individuals in the order of date of birth (with the oldest individual on the date of the enactment of this Act (or, if applicable, that individual's survivors under paragraph (6)) receiving full payment first), until all eligible individuals have received payment in full.

(c) RESOURCES FOR LOCATING ELIGIBLE INDIVIDUALS.—In attempting to locate any eligible individual, the Attorney General may use any facility or resource of any public or nonprofit organization or any other record, document, or information that may be made available to the Attorney General. Records. 102 STAT. 908

(d) ADMINISTRATIVE COSTS NOT PAID FROM THE FUND.—No costs incurred by the Attorney General in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any eligible individual.

(e) TERMINATION OF DUTIES OF ATTORNEY GENERAL.—The duties of the Attorney General under this section shall cease when the Fund terminates.

been taken, other than audit reports on which a management decision was made within the preceding year, containing—

"(A) a list of such audit reports and the date each such report was issued;

"(B) the dollar value of disallowed costs for each report;

"(C) the dollar value of recommendations that funds be put to better use agreed to by management for each report; and

"(D) an explanation of the reasons final action has not been taken with respect to each such audit report,

except that such statement may exclude such audit reports that are under formal administrative or judicial appeal or upon which management of an establishment has agreed to pursue a legislative solution, but shall identify the number of reports in each category so excluded.".

Public information. 5 USC app.

(c) ISSUANCE OF REPORT ON FINAL ACTION.—Section 5(c) of such Act is amended by adding at the end thereof the following new sentence: "Within 60 days after the transmission of the semiannual reports of each establishment head to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost.".

(d) CONFORMING AMENDMENT; DEFINITIONS.—Section 5 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) As used in this section—

"(1) the term 'questioned cost' means a cost that is questioned by the Office because of— 102 STAT. 2528

"(A) an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds;

"(B) a finding that, at the time of the audit, such cost is not supported by adequate documentation; or

"(C) a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable;

"(2) the term 'unsupported cost' means a cost that is questioned by the Office because the Office found that, at the time of the audit, such cost is not supported by adequate documentation;

"(3) the term 'disallowed cost' means a questioned cost that management, in a management decision, has sustained or agreed should not be charged to the Government;

"(4) the term 'recommendation that funds be put to better use' means a recommendation by the Office that funds could be used more efficiently if management of an establishment took actions to implement and complete the recommendation, including—

"(A) reductions in outlays;

"(B) deobligation of funds from programs or operations;

"(C) withdrawal of interest subsidy costs on loans or loan guarantees, insurance, or bonds;

"(D) costs not incurred by implementing recommended improvements related to the operations of the establishment, a contractor or grantee;

"(E) avoidance of unnecessary expenditures noted in preaward reviews of contract or grant agreements; or

"(F) any other savings which are specifically identified;

"(5) the term 'management decision' means the evaluation by the management of an establishment of the findings and recommendations included in an audit report and the issuance of a final decision by management concerning its response to such findings and recommendations, including actions concluded to be necessary; and

"(6) the term 'final action' means—

"(A) the completion of all actions that the management of an establishment has concluded, in its management deci-

sion, are necessary with respect to the findings and recommendations included in an audit report; and

"(B) in the event that the management of an establishment concludes no action is necessary, final action occurs when a management decision has been made.".

SEC. 107. OATH ADMINISTRATION AUTHORITY.

Section 6 a) of the Inspector General Act of 1978 is amended— 5 USC app.

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively, and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this Act, which oath, affirmation, or affidavit when administered or taken by or before an employee of an Office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal;". 102 STAT. 2529

SEC. 108. APPROPRIATION ACCOUNTS.

Section 1105(a)(25) of title 31, United States Code, is amended to read as follows:

"(25) a separate appropriation account for appropriations for each Office of Inspector General of an establishment defined under section 11(2) of the Inspector General Act of 1978.".

SEC. 109. EXTERNAL REVIEWS.

Section 4(b) of the Inspector General Act of 1978 is amended— 5 USC app.

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end thereof the following:

"(2) For purposes of determining compliance with paragraph (1)(A) with respect to whether internal quality controls are in place and operating and whether established audit standards, policies, and procedures are being followed by Offices of Inspector General of establishments defined under section 11(2), Offices of Inspector General of designated Federal entities defined under section 8E(a)(2), and any audit office established within a Federal entity defined under section 8E(a)(1), reviews shall be performed exclusively by an audit entity in the Federal Government, including the General Accounting Office or the Office of Inspector General of each establishment defined under section 11(2), or the Office of Inspector General of each designated Federal entity defined under section 8E(a)(2).".

SEC. 110. TECHNICAL AMENDMENTS.

(a) SENIOR EXECUTIVE SERVICE POSITIONS.—Section 6 of the Inspector General Act of 1978 is amended by adding at the end thereof the following: 5 USC app.

"(d) For purposes of the provisions of title 5, United States Code, governing the Senior Executive Service, any reference in such provisions to the 'appointing authority' for a member of the Senior Executive Service or for a Senior Executive Service position shall, if such member or position is or would be within the Office of an Inspector General, be deemed to be a reference to such Inspector General.".

(b) COAST GUARD OPERATION AS PART OF DEPARTMENT OR AGENCY.—Section 8(e) of the Inspector General Act of 1978 is amended by inserting before the period at the end thereof the following: ", except that, when the Coast Guard operates as a service of another department or agency of the Federal Government, a 5 USC app.

analysis, law, management analysis, public administration, or investigations. The Inspector General shall report to, and be under the general supervision of, the Public Printer. The Public Printer shall have no authority to prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or 102 STAT. 2531
from issuing any subpena during the course of any audit or investigation.

"(b) The Inspector General may be removed from office by the Public Printer. The Public Printer shall, promptly upon such removal, communicate in writing the reasons for any such removal to each House of the Congress.

"§ 3903. Duties, responsibilities, authority, and reports

"(a) Sections 4, 5, 6 (other than subsection (a) (7) and (8) thereof), and 7 of the Inspector General Act of 1978 (Public Law 95-452; 5 U.S.C. App. 3) shall apply to the Inspector General of the Government Printing Office and the Office of such Inspector General and such sections shall be applied to the Government Printing Office and the Public Printer by substituting—

"(1) 'Government Printing Office' for 'establishment'; and

"(2) 'Public Printer' for 'head of the establishment'.

"(b) The Inspector General, in carrying out the provisions of this chapter, is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General subject to the provisions of this title governing selections, appointments, and employment in the Government Printing Office (and any regulations thereunder).".

SEC. 203. TRANSFER OF OFFICE.

44 USC 3901 note.

(a) IN GENERAL.—There is transferred to the Office of Inspector General established pursuant to this title, the office of the Government Printing Office referred to as the "Office of Inspector General".

(b) RELATED PROVISIONS.—With respect to such transferred office—

(1) sections 9 (b) and (c) of the Inspector General Act of 1978 shall apply; and

(2) all the functions, powers, and duties of the office transferred by subsection (a) shall lapse.

(c) PERSONNEL.—Any person who, on the effective date of this title, held a position compensated in accordance with the applicable laws and regulations that govern selections, appointments, and employment within the Government Printing Office, and who, without a break in service, is appointed in the Office of Inspector General established by this title to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

SEC. 204. AMENDMENT TO TABLE OF CHAPTERS.

The table of chapters for title 44, United States Code, is amended by adding at the end thereof the following new item:

"39. Government Printing Office: Office of Inspector General ..... 3901".

SEC. 205. PAYMENT AUTHORITY SUBJECT TO APPROPRIATIONS.

44 USC 3901 note.

Any authority to make payments under this title shall be effective only to such extent as provided in appropriations Acts.

"(A) In order to maintain internal controls over access to returns and return information, the Inspector General, or in the absence of the Inspector General, the Acting Inspector General, the Deputy Inspector General, the Assistant Inspector General for Audits, or the Assistant Inspector General for Investigations, shall provide to the Assistant Commissioner (Inspection) of the Internal Revenue Service written notice of the Inspector General's intent to access returns and return information. If the Inspector General determines that the Inspection Service of the Internal Revenue Service should not be made aware of a notice of access to returns and return information, such notice shall be provided to the Senior Deputy Commissioner of Internal Revenue.

"(B) Such notice shall clearly indicate the specific returns or return information being accessed, contain a certification by the Inspector General, or in the absence of the Inspector General, the Acting Inspector General, the Deputy Inspector General, the Assistant Inspector General for Audits, or the Assistant Inspector General for Investigations, that the returns or return information being accessed are needed for a purpose described under section 6103(h)(1) of the Internal Revenue Code of 1986, and identify those employees of the Office of Inspector General of the Department of the Treasury who may receive such returns or return information.

"(C) The Internal Revenue Service shall maintain the same system of standardized records or accountings of all requests from the Inspector General for inspection or disclosure of returns and return information (including the reasons for and dates of such requests), and of returns and return information inspected or disclosed pursuant to such requests, as described under section 6103(p)(3)(A) of the Internal Revenue Code of 1986. Such system of standardized records or accountings shall also be available for examination in the same manner as provided under section 6103(p)(3) of the Internal Revenue Code of 1986.

102 STAT. 2520

"(D) The Inspector General shall be subject to the same safeguards and conditions for receiving returns and return information as are described under section 6103(p)(4) of the Internal Revenue Code of 1986.

"(f) An audit or investigation conducted by the Inspector General shall not affect a final decision of the Secretary of the Treasury or his delegate under section 6406 of the Internal Revenue Code of 1986.

"(g) Notwithstanding section 4(d), in matters involving chapter 75 of the Internal Revenue Code of 1986, the Inspector General shall report expeditiously to the Attorney General only offenses under section 7214 of such Code, unless the Inspector General obtains the consent of the Commissioner of Internal Revenue to exercise additional reporting authority with respect to such chapter. Reports.

"(h) Any report required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on Governmental Affairs and Finance of the Senate and the Committees on Government Operations and Ways and Means of the House of Representatives. Reports.

"SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF JUSTICE

"SEC. 8D. (a)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Attorney General with respect to audits or investigations, or the issuance of subpenas, which require access to sensitive information concerning— Classified information. 5 USC app.

"(A) ongoing civil or criminal investigations or proceedings;

"(B) undercover operations;

"(C) the identity of confidential sources, including protected witnesses;

"(D) intelligence or counterintelligence matters; or

"(E) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Attorney General may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpena, if the Attorney General determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent the significant impairment to the national interests of the United States.

"(3) If the Attorney General exercises any power under paragraph (1) or (2), the Attorney General shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committees on Governmental Affairs and Judiciary of the Senate and the Committees on Government Operations and Judiciary of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

"(b) In carrying out the duties and responsibilities specified in this
102 STAT. 2521 Act, the Inspector General of the Department of Justice—

"(1) may initiate, conduct and supervise such audits and investigations in the Department of Justice as the Inspector General considers appropriate;

"(2) shall give particular regard to the activities of the Counsel, Office of Professional Responsibility of the Department and the audit, internal investigative, and inspection units outside the Office of Inspector General with a view toward avoiding duplication and insuring effective coordination and cooperation; and

"(3) shall refer to the Counsel, Office of Professional Responsibility of the Department for investigation, information or allegations relating to the conduct of an officer or employee of the Department of Justice employed in an attorney, criminal investigative, or law enforcement position that is or may be a violation of law, regulation, or order of the Department or any other applicable standard of conduct, except that no such referral shall be made if the officer or employee is employed in the Office of Professional Responsibility of the Department.

Reports. "(c) Any report required to be transmitted by the Attorney General to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on the Judiciary and Governmental Affairs of the Senate and the Committees on the Judiciary and Government Operations of the House of Representatives.".

5 USC app. (g) DISCLOSURE OF TAX RETURNS AND RETURN INFORMATION.—Section 5(e)(3) of the Inspector General Act of 1978 is amended by striking out "Nothing" in the first sentence and inserting in lieu thereof "Except to the extent and in the manner provided under section 6103(f) of the Internal Revenue Code of 1986, nothing".

5 USC app. (h) TRANSFER OF 20 INVESTIGATION POSITIONS WITHIN THE DEPARTMENT OF JUSTICE.—No later than 90 days after the date of appointment of the Inspector General of the Department of Justice, the Inspector General shall designate 20 full-time investigation positions which the Attorney General may transfer from the Office of Inspector General of the Department of Justice to the Office of Professional Responsibility of the Department of Justice for the performance of functions described under section 8D(b)(3) of the Inspector General Act of 1978. Any personnel who are transferred pursuant to this subsection, and who, at the time of being so transferred, are protected from reduction in classification or com-

pensation under section 9(c) of such Act, shall continue to be so protected for 1 year after the date of transfer pursuant to this subsection.

SEC. 103. UNIFORM SALARIES FOR INSPECTORS GENERAL.

(a) UNIFORM SALARIES.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"Inspector General, Department of Commerce.
"Inspector General, Department of the Interior.
"Inspector General, Department of Justice.
"Inspector General, Department of the Treasury.
"Inspector General, Agency for International Development.
"Inspector General, Environmental Protection Agency.
"Inspector General, Federal Emergency Management Agency.
"Inspector General, General Services Administration.
"Inspector General, National Aeronautics and Space Administration.
"Inspector General, Nuclear Regulatory Commission.
"Inspector General, Office of Personnel Management.
"Inspector General, Railroad Retirement Board.
"Inspector General, Small Business Administration.".

102 STAT. 2522

(b) CONFORMING AMENDMENTS.—Section 5316 of such title is amended by striking out the paragraphs relating to—

(1) the Inspector General of the Department of Commerce;
(2) the Inspector General of the Department of the Interior;
(3) the Inspector General of the Agency for International Development;
(4) the Inspector General of the Community Services Administration;
(5) the Inspector General of the Environmental Protection Agency;
(6) the Inspector General of the General Services Administration;
(7) the Inspector General of the National Aeronautics and Space Administration;
(8) the Inspector General of the Small Business Administration;
(9) the Deputy Inspector General of the Department of Energy; and
(10) the Deputy Inspector General of the Department of Health and Human Services.

SEC. 104. EXTENSION OF INSPECTOR GENERAL ACT PROTECTIONS AND REQUIREMENTS TO CERTAIN DESIGNATED FEDERAL ENTITIES.

(a) REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES.—The Inspector General Act of 1978 (as amended by section 102(f) of this title) is further amended by inserting after section 8D the following new section:

"REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES

"SEC. 8E. (a) Notwithstanding section 11 of this Act, as used in this section— 5 USC app.

"(1) the term 'Federal entity' means any Government corporation (within the meaning of section 103(1) of title 5, United States Code), any Government controlled corporation (within the meaning of section 103(2) of such title), or any other entity in the Executive branch of the Government, or any independent regulatory agency, but does not include—

"(A) an establishment (as defined under section 11(2) of this Act) or part of an establishment;

"(B) a designated Federal entity (as defined under paragraph (2) of this subsection) or part of a designated Federal entity;

"(C) the Executive Office of the President;

"(D) the Central Intelligence Agency;

"(E) the General Accounting Office; or

"(F) any entity in the judicial or legislative branches of the Government, including the Administrative Office of the United States Courts and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol;

102 STAT. 2523

"(2) the term 'designated Federal entity' means ACTION, Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System, the Board for International Broadcasting, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Election Commission, the Federal Home Loan Bank Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Labor Relations Board, the National Science Foundation, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, the Smithsonian Institution, the Tennessee Valley Authority, the United States International Trade Commission, and the United States Postal Service;

"(3) the term 'head of the Federal entity' means any person or persons designated by statute as the head of a Federal entity, and if no such designation exists, the chief policymaking officer or board of a Federal entity as identified in the list published pursuant to subsection (h)(1) of this section;

"(4) the term 'head of the designated Federal entity' means any person or persons designated by statute as the head of a designated Federal entity and if no such designation exists, the chief policymaking officer or board of a designated Federal entity as identified in the list published pursuant to subsection (h)(1) of this section, except that with respect to the National Science Foundation, such term means the National Science Board;

"(5) the term 'Office of Inspector General' means an Office of Inspector General of a designated Federal entity; and

"(6) the term 'Inspector General' means an Inspector General of a designated Federal entity.

Establishment.

"(b) No later than 180 days after the date of the enactment of this section, there shall be established and maintained in each designated Federal entity an Office of Inspector General. The head of the designated Federal entity shall transfer to such office the offices, units, or other components, and the functions, powers, or duties thereof, that such head determines are properly related to the functions of the Office of Inspector General and would, if so transferred, further the purposes of this section. There shall not be transferred to such office any program operating responsibilities.

"(c) Except as provided under subsection (f) of this section, the Inspector General shall be appointed by the head of the designated Federal entity in accordance with the applicable laws and regulations governing appointments within the designated Federal entity.

"(d) Each Inspector General shall report to and be under the general supervision of the head of the designated Federal entity, but

shall not report to, or be subject to supervision by, any other officer or employee of such designated Federal entity. The head of the designated Federal entity shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation. 102 STAT. 2524

"(e) If an Inspector General is removed from office or is transferred to another position or location within a designated Federal entity, the head of the designated Federal entity shall promptly communicate in writing the reasons for any such removal or transfer to both Houses of the Congress.

"(f)(1) The Chief Postal Inspector of the United States Postal Service shall also hold the position of Inspector General of the United States Postal Service, and for purposes of this section, shall report to, and be under the general supervision of, the Postmaster General of the United States Postal Service. The Postmaster General, in consultation with the Governors of the United States Postal Service, shall appoint the Chief Postal Inspector. The Postmaster General, with the concurrence of the Governors of the United States Postal Service, shall have power to remove the Chief Postal Inspector or transfer the Chief Postal Inspector to another position or location within the United States Postal Service. If the Chief Postal Inspector is removed or transferred in accordance with this subsection, the Postmaster General shall promptly notify both Houses of the Congress in writing of the reasons for such removal or transfer.

"(2) For purposes of paragraph (1), the term 'Governors' has the same meaning as such term is defined under section 102(3) of title 39, United States Code.

"(g)(1) Sections 4, 5, 6 (other than subsections (a)(7) and (a)(8) thereof), and 7 of this Act shall apply to each Inspector General and Office of Inspector General of a designated Federal entity and such sections shall be applied to each designated Federal entity and head of the designated Federal entity (as defined under subsection (a)) by substituting—

"(A) 'designated Federal entity' for 'establishment'; and

"(B) 'head of the designated Federal entity' for 'head of the establishment'.

"(2) In addition to the other authorities specified in this Act, an Inspector General is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the designated Federal entity.

"(3) Notwithstanding the last sentence of subsection (d) of this section, the provisions of subsection (a) of section 8C (other than the provisions of subparagraphs (A), (B), (C), and (E) of subsection (a)(1)) shall apply to the Inspector General of the Board of Governors of the Federal Reserve System and the Chairman of the Board of Governors of the Federal Reserve System in the same manner as such provisions apply to the Inspector General of the Department of the Treasury and the Secretary of the Treasury, respectively.

"(h)(1) No later than April 30, 1989, and annually thereafter, the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, shall publish in the Federal Register a list of the Federal entities and designated Federal entities and the head of each such entity (as defined under subsection (a) of this section). Federal Register, publication. 102 STAT. 2525

"(2) Beginning on October 31, 1989, and on October 31 of each succeeding calendar year, the head of each Federal entity (as defined under subsection (a) of this section) shall prepare and transmit to the Director of the Office of Management and Budget and to each House of the Congress a report which— Reports.

"(A) states whether there has been established in the Federal entity an office that meets the requirements of this section;

"(B) specifies the actions taken by the Federal entity otherwise to ensure that audits are conducted of its programs and operations in accordance with the standards for audit of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States, and includes a list of each audit report completed by a Federal or non-Federal auditor during the reporting period and a summary of any particularly significant findings; and

"(C) summarizes any matters relating to the personnel, programs, and operations of the Federal entity referred to prosecutive authorities, including a summary description of any preliminary investigation conducted by or at the request of the Federal entity concerning these matters, and the prosecutions and convictions which have resulted.".

(b) CONFORMING AMENDMENT.—Section 410(b) of title 39, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon;

(3) by striking out "The" in paragraph (8) and inserting in lieu thereof "the";

(4) by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and "and"; and

(5) by adding at the end thereof the following new paragraph:

"(9) the provisions of section 8E of the Inspector General Act of 1978.".

SEC. 105. RULE OF CONSTRUCTION OF SPECIAL PROVISIONS.

The Inspector General Act of 1978 (as amended by sections 102(f) and 104 of this title) is further amended by inserting after section 8E the following new section:

"RULE OF CONSTRUCTION OF SPECIAL PROVISIONS

5 USC app.

"SEC. 8F. The special provisions under section 8, 8A, 8B, 8C, or 8D of this Act relate only to the establishment named in such section and no inference shall be drawn from the presence or absence of a provision in any such section with respect to an establishment not named in such section or with respect to a designated Federal entity as defined under section 8E(a).".

SEC. 106. PROVISIONS TO ENSURE UNIFORMITY AND RELIABILITY OF REPORTS.

(a) REPORT INFORMATION REQUIRED ON AUDITS.—Section 5(a) of the

5 USC app.

Inspector General Act of 1978 is amended by striking out "and" at the end of paragraph (5) and by striking out paragraph (6) and

102 STAT. 2526

inserting in lieu thereof:

"(6) a listing, subdivided according to subject matter, of each audit report issued by the Office during the reporting period and for each audit report, where applicable, the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs) and the dollar value of recommendations that funds be put to better use;

"(7) a summary of each particularly significant report;

"(8) statistical tables showing the total number of audit reports and the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs), for audit reports—

"(A) for which no management decision had been made by the commencement of the reporting period;

"(B) which were issued during the reporting period;

"(C) for which a management decision was made during the reporting period, including—

"(i) the dollar value of disallowed costs; and

"(ii) the dollar value of costs not disallowed; and

"(D) for which no management decision has been made by the end of the reporting period;

"(9) statistical tables showing the total number of audit reports and the dollar value of recommendations that funds be put to better use by management, for audit reports—

"(A) for which no management decision had been made by the commencement of the reporting period;

"(B) which were issued during the reporting period;

"(C) for which a management decision was made during the reporting period, including—

"(i) the dollar value of recommendations that were agreed to by management; and

"(ii) the dollar value of recommendations that were not agreed to by management; and

"(D) for which no management decision has been made by the end of the reporting period;

"(10) a summary of each audit report issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons such management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report;

"(11) a description and explanation of the reasons for any significant revised management decision made during the reporting period; and

"(12) information concerning any significant management decision with which the Inspector General is in disagreement.".

(b) REPORT ON FINAL ACTION.—Section 5(b) of such Act is amended by striking out "head of the establishment containing any comments such head deems appropriate." and inserting in lieu thereof the following: "head of the establishment containing— 5 USC app.

"(1) any comments such head determines appropriate;

"(2) statistical tables showing the total number of audit reports and the dollar value of disallowed costs, for audit reports—

"(A) for which final action had not been taken by the commencement of the reporting period;

102 STAT. 2527

"(B) on which management decisions were made during the reporting period;

"(C) for which final action was taken during the reporting period, including—

"(i) the dollar value of disallowed costs that were recovered by management through collection, offset, property in lieu of cash, or otherwise; and

"(ii) the dollar value of disallowed costs that were written off by management; and

"(D) for which no final action has been taken by the end of the reporting period;

"(3) statistical tables showing the total number of audit reports and the dollar value of recommendations that funds be put to better use by management agreed to in a management decision, for audit reports—

"(A) for which final action had not been taken by the commencement of the reporting period;

"(B) on which management decisions were made during the reporting period;

"(C) for which final action was taken during the reporting period, including—

"(i) the dollar value of recommendations that were actually completed; and

"(ii) the dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed; and

"(D) for which no final action has been taken by the end of the reporting period; and

"(4) a statement with respect to audit reports on which management decisions have been made but final action has not

member of the Coast Guard shall be deemed to be an employee of such department or agency".

5 USC app.

SEC. 111. REPORT ON IMPLEMENTATION.

On October 31, 1989, the head of each designated Federal entity (as defined under section 8E(a)(2) of the Inspector General Act of 1978) shall submit to the Director of the Office of Management and Budget and to each House of the Congress a report on the status of the implementation by that designated Federal entity of the requirements of section 8E of such Act. Such report shall identify any area in which implementation is not complete and state the reasons for that failure.

102 STAT. 2530

5 USC app.

SEC. 112. PAYMENT AUTHORITY SUBJECT TO APPROPRIATIONS.

Any authority to make payments under this title shall be effective only to such extent as provided in appropriations Acts.

5 USC app.

SEC. 113. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of the enactment of this title, except that section 5(a) (6) through (12) of the Inspector General Act of 1978 (as amended by section 106(a) of this title) and section 5(b) (1) through (4) of the Inspector General Act of 1978 (as amended by section 106(b) of this title) shall take effect 1 year after the date of the enactment of this title.

Government Printing Office Inspector General Act of 1988.
44 USC 101 note.

TITLE II—GOVERNMENT PRINTING OFFICE INSPECTOR GENERAL

SEC. 201. SHORT TITLE.

This title may be cited as the "Government Printing Office Inspector General Act of 1988".

SEC. 202. OFFICE OF INSPECTOR GENERAL.

Title 44 of the United States Code is amended by adding at the end thereof the following new chapter:

"CHAPTER 39—GOVERNMENT PRINTING OFFICE: OFFICE OF INSPECTOR GENERAL

"Sec.
"3901. Purpose and establishment of the Office of Inspector General.
"3902. Appointment of Inspector General; supervision; removal.
"3903 Duties, responsibilities, authority, and reports.

"§ 3901. Purpose and establishment of the Office of Inspector General

"In order to create an independent and objective office—

"(1) to conduct and supervise audits and investigations relating to the Government Printing Office;

"(2) to provide leadership and coordination and recommend policies to promote economy, efficiency, and effectiveness; and

"(3) to provide a means of keeping the Public Printer and the Congress fully and currently informed about problems and deficiencies relating to the administration and operations of the Government Printing Office;

there is hereby established an Office of Inspector General in the Government Printing Office.

"§ 3902. Appointment of Inspector General; supervision; removal

"(a) There shall be at the head of the Office of Inspector General, an Inspector General who shall be appointed by the Public Printer without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial

44 USC 3901 note.

102 STAT. 2532

SEC. 206. EFFECTIVE DATE.

The provisions of this title and the amendments made by this title shall take effect 180 days after the date of the enactment of this title.

Approved October 18, 1988.

LEGISLATIVE HISTORY—S. 908 (H.R. 4054):

HOUSE REPORTS: No. 100-771 accompanying H.R. 4054 (Comm. on Government Operations) and No. 100-1020 (Comm. of Conference).
SENATE REPORTS: No. 100-150 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 2, considered and passed Senate.
July 26, H.R. 4054 considered and passed House; proceedings vacated and S. 908, amended, passed in lieu.
Oct. 4, Senate agreed to conference report.
Oct. 5, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Oct. 18, Presidential statement.

102 STAT. 2989

Public Law 100-590
100th Congress

An Act

Nov. 3, 1988
[H.R. 4174]

To amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small Business Administration Reauthorization and Amendment Act of 1988.
15 USC 631 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Administration Reauthorization and Amendment Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL REAUTHORIZATION PROVISIONS

Sec. 101. Program levels and authorizations.
Sec. 102. Form simplification and preferred financing.
Sec. 103. Guarantee percentages for preferred lenders.
Sec. 104. Examinations of small business investment companies.
Sec. 105. Minimum life of limited partnership small business investment companies.
Sec. 106. Periodic small business investment company debenture sales.
Sec. 107. General Accounting Office evaluation of the service corps of retired executives.
Sec. 108. Participation in the small business innovation and research program.
Sec. 109. SBA program data and evaluation.
Sec. 110. Breakout procurement center representatives.
Sec. 111. Amendments relating to revolving funds.
Sec. 112. Development company loan program.
Sec. 113. Secondary market in development company loans.
Sec. 114. Development company debentures.
Sec. 115. Development company loans—policy.
Sec. 116. Development company loans—leased premises.
Sec. 117. Development companies—staff and overhead.
Sec. 118. Disaster loan policy.
Sec. 119. Definition of disasters.
Sec. 120. Disaster assistance.
Sec. 121. Disaster mitigation actions.
Sec. 122. Unsecured disaster loans.
Sec. 123. National directory of small businesses.
Sec. 124. Women-owned business.
Sec. 125. Analysis of financing sources.
Sec. 126. Effective data collection on women-owned business.
Sec. 127. Management and technical assistance for women-owned small business.
Sec. 128. New procurement center representatives.
Sec. 129. Rural area business development plans.

(10) by inserting after subparagraph (M) (as redesignated by paragraph (4) of this subsection) the following new subparagraph:

"(N) of the Federal Emergency Management Agency, the office of that agency referred to as the 'Office of Inspector General';"; and

(11) by inserting after subparagraph (P) (as redesignated by paragraph (5) of this subsection) the following new subparagraphs:

"(Q) of the Nuclear Regulatory Commission, the office of that commission referred to as the 'Office of Inspector and Auditor';

"(R) of the Office of Personnel Management, the offices of that agency referred to as the 'Office of Inspector General', the 'Insurance Audits Division, Retirement and Insurance Group', and the 'Analysis and Evaluation Division, Administration Group';

"(S) of the Railroad Retirement Board, the Office of Inspector General (as established by section 23 of the Railroad Retirement Act of 1974);".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1)(A) Section 208 of the Department of Energy Organization Act is repealed. 42 USC 7138.

(B) The table of contents in the first section of such Act is amended by striking out the item relating to section 208.

(2) Title II of Public Law 94-505 is repealed. 42 USC 3521-3527.

(3) Section 23 of the Railroad Retirement Act of 1974 is repealed. 45 USC 231v.

(4) Any individual who, on the date of enactment of this Act, is serving as the Inspector General of the Department of Energy, the Department of Health and Human Services, or the Railroad Retirement Board, shall continue to serve in such position until such individual dies, resigns, or is removed from office in accordance with section 3(b) of the Inspector General Act of 1978. 5 USC app.

(f) SPECIAL PROVISIONS WITH RESPECT TO THE INSPECTORS GENERAL OF THE NUCLEAR REGULATORY COMMISSION, THE DEPARTMENT OF THE TREASURY, AND THE DEPARTMENT OF JUSTICE.—The Inspector General Act of 1978 is amended by inserting after section 8A the following new sections:

"SPECIAL PROVISIONS CONCERNING THE NUCLEAR REGULATORY COMMISSION

"SEC. 8B. (a) The Chairman of the Commission may delegate the authority specified in the second sentence of section 3(a) to another member of the Nuclear Regulatory Commission, but shall not delegate such authority to any other officer or employee of the Commission. 5 USC app.

"(b) Notwithstanding sections 6(a) (7) and (8), the Inspector General of the Nuclear Regulatory Commission is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments and employment, and the obtaining of such services, within the Nuclear Regulatory Commission. 102 STAT. 2518

"SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF THE TREASURY

"SEC. 8C. (a)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Secretary of the Treasury with respect to audits or investigations, or the issuance of subpenas, which require access to sensitive information concerning— Classified information. 5 USC app.

"(A) ongoing criminal investigations or proceedings;

"(B) undercover operations;

"(C) the identity of confidential sources, including protected witnesses;

"(D) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions, the disclosure of which could reasonably be expected to have a significant influence on the economy or market behavior;

"(E) intelligence or counterintelligence matters; or

"(F) other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 3, United States Code, or any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note; Public Law 94-524).

"(2) With respect to the information described under paragraph (1), the Secretary of the Treasury may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent significant impairment to the national interests of the United States.

"(3) If the Secretary of the Treasury exercises any power under paragraph (1) or (2), the Secretary of the Treasury shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committees on Governmental Affairs and Finance of the Senate and the Committees on Government Operations and Ways and Means of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

"(b) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of the Treasury shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the Bureau of Alcohol, Tobacco and Firearms, the Office of Internal Affairs of the United States Customs Service, and the Office of Inspections of the United States Secret Service, and the internal audits and internal investigations performed by the Office of Assistant Commissioner (Inspection) of the Internal Revenue Service. The head of each such office shall promptly report to the Inspector General the significant activities being carried out by such office.

Reports.

102 STAT. 2519

"(c) Notwithstanding subsection (b), the Inspector General may initiate, conduct and supervise such audits and investigations in the Department of the Treasury (including the bureaus and services referred to in subsection (b)) as the Inspector General considers appropriate.

"(d) If the Inspector General initiates an audit or investigation under subsection (c) concerning a bureau or service referred to in subsection (b), the Inspector General may provide the head of the office of such bureau or service referred to in subsection (b) with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues a notice under the preceding sentence, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General and any other audit or investigation of such matter shall cease.

"(e)(1) The Inspector General shall have access to returns and return information, as defined in section 6103(b) of the Internal Revenue Code of 1986, only in accordance with the provisions of section 6103 of such Code and this Act.

"(2) Access by the Inspector General to returns and return information under section 6103(h)(1) of such Code shall be subject to the following additional requirements:

shall take such actions as it deems necessary to ensure that the cooperation does not constitute or imply an endorsement by the
102 STAT. 3005 Administration of or give undue recognition to the public official or agency, and that the Administration is given primary recognition in all cosponsored printed materials, whether the participant is a profit-making concern or a governmental agency or official."; and

District of Columbia.

(3) by inserting in clause (i) after "agreement" the following: ", executed on behalf of the agency by an employee of the agency in Washington, District of Columbia, and who shall also approve, in advance, any printed materials to be distributed at the conference,".

15 USC 637 note.

SEC. 132. BACKGROUND CHECK POLICY—FINGERPRINTING.

The Small Business Administration shall not require fingerprints to be obtained for background check purposes from any participant in any Administration program who is serving on a voluntary basis and without compensation unless the Administration has reasonable grounds to believe that the participant's record or background is such as to make the participant ineligible to participate in the relevant program.

SEC. 133. AMENDMENTS RELATING TO PROGRAMS FOR BLIND AND HANDICAPPED.

(a) IN GENERAL.—Section 15(c) of the Small Business Act (15 U.S.C. 644(c)) is amended to read as follows:

"(c)(1) As used in this subsection:

"(A) The term 'Committee' means the Committee for Purchase from the Blind and Other Severely Handicapped established under the first section of the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46).

"(B) The term 'public or private organization for the handicapped' has the same meaning given such term in section 3(e).

"(C) The term 'handicapped individual' has the same meaning given such term in section 3(f).

Appropriation authorization.

"(2)(A) During each of fiscal years 1989 through 1993, public or private organizations for the handicapped shall be eligible to participate in programs authorized under this section in an aggregate amount for each year as follows: In 1989 not more than $30,000,000, in 1990 not more than $40,000,000, and in each of 1991, 1992 and 1993 not more than $50,000,000.

"(B) None of the amounts authorized for participation by subparagraph (A) may be placed on the procurement list maintained by the Committee pursuant to section 2 of the Act entitled 'An Act to create a Committee on Purchases of Blindmade Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 47).

"(3) The Administrator shall monitor and evaluate such participation.

"(4)(A) Not later than ten days after the announcement of a proposed award of a contract by an agency or department to a public or private organization for the handicapped, a for-profit small business concern that has experienced or is likely to experience severe economic injury as the result of the proposed award may file an appeal of the proposed award with the Administrator.

"(B) If such a concern files an appeal of a proposed award under subparagraph (A) and the Administrator, after consultation with the Executive Director of the Committee, finds that the concern has experienced or is likely to experience severe economic injury as the
102 STAT. 3006 result of the proposed award, not later than thirty days after the filing of the appeal, the Administration shall require each agency and department having procurement powers to take such action as may be appropriate to alleviate economic injury sustained or likely to be sustained by the concern.

Reports.

"(5) Each agency and department having procurement powers shall report to the Office of Federal Procurement Policy each time a

operations of the Service Corps of Retired Executives. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and
102 STAT. 2991 purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(f) The following program levels are authorized for fiscal year 1990—

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $65,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $18,000,000 in loans as provided in paragraph (10), $25,000,000 in loans as provided in paragraph (11), and $22,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of section 7(a) of this Act;

"(2) for the programs authorized by section 7(a) of this Act and section 504 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,543,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $68,000,000 in loans as provided in paragraph (11), $62,000,000 in loans as provided in paragraph (12), and $478,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 504;

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $283,000,000 in guarantees of debentures;

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,560,000,000; and

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is not authorized to enter into any guarantees.

"(g) There are authorized to be appropriated to the Administration for fiscal year 1990 such sums as may be necessary to carry out the provisions of this Act and the Small Business Investment Act of 1958, including $238,000,000 for salaries and expenses of the Administration, of which $2,700,000 shall be available for the operations of the Service Corps of Retired Executives. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(h) There are authorized to be appropriated to the Administration for fiscal year 1991 such sums as may be necessary to carry out the provisions of this Act and the Small Business Investment Act of 1958. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may
102 STAT. 2992 be necessary and appropriate for such administrative expenses.".

SEC. 102. FORM SIMPLIFICATION AND PREFERRED FINANCING.

(a) CERTIFIED LOAN PROGRAM.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding to subsection (a) the following new paragraph:

"(19) During fiscal years 1989, 1990, and 1991, in addition to the preferred lenders program authorized by the proviso in section 5(b)(7), the Administration is authorized to establish a certified loan program for lenders who establish their knowledge of Administration laws and regulations concerning the loan guarantees program and their proficiency in program requirements. In order to encourage certified lenders and preferred lenders to provide loans of $50,000 or less in guarantees to eligible small business loan applicants, the Administration (A) shall develop and shall allow participating lenders in the certified loan program and in the preferred loan program to solely utilize a uniform and simplified loan form for such loans and (B) shall allow such lenders to retain one-half of the fee collected pursuant to section 7(a)(16) on such loans: *Provided,* That a participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed $50,000 unless such excess amount was not approved under the provisions of this paragraph. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or if the Administration determines that the loss experience of the lender is excessive as compared to other lenders: *Provided further,* That any suspension or revocation of the designation shall not affect any outstanding guarantee: *And, provided further,* That the Administration may not reduce the per centum of guarantee as a criterion of eligibility for participation in this program, except as otherwise provided by law.".

(b) REPORTS.—The Administration shall take appropriate steps to expand participation in the certified loan program and shall report to the Small Business Committees of the Senate and the House of Representatives on the amount of loans approved and the amount of losses sustained under the provisions of section 7(a)(19) of the Small Business Act. An interim report shall be submitted not later than one year after date of enactment of this Act and a final report shall be submitted not later than 18 months after the date of enactment. 15 USC 636 note.

SEC. 103. GUARANTEE PERCENTAGES FOR PREFERRED LENDERS.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by inserting after the word "thereto" in the second proviso, ", but any such reduction shall not exceed five points".

SEC. 104. EXAMINATIONS OF SMALL BUSINESS INVESTMENT COMPANIES.

Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by striking the second sentence of subsection (b) and by adding the following new subsection to such section:

"(c) Each small business investment company shall be examined at least every two years in such detail so as to determine whether or not— Law enforcement and crime.

"(1) it has engaged solely in lawful activities and those contemplated by this title;

"(2) it has engaged in prohibited conflicts of interest;

"(3) it has acquired or exercised illegal control of an assisted small business;

"(4) it has made investments in small businesses for not less than four years in the case of section 301(d) licensees and in all other cases, not less than five years;

"(5) it has invested more than 20 per centum of its capital in any individual small business;

"(6) it has engaged in relending, foreign investments, or passive investments; or

"(7) it has charged an interest rate in excess of the maximum permitted by law:

Provided, That the Administration may waive the examination (A) for up to one additional year if, in its discretion, it determines such a delay would be appropriate, based upon the amount of debentures being issued by the company and its repayment record, the prior operating experience of the company, the contents and results of the

last examination and the management expertise of the company, or (B) if it is a company whose operations have been suspended while the company is involved in litigation or is in receivership.".

SEC. 105. MINIMUM LIFE OF LIMITED PARTNERSHIP SMALL BUSINESS INVESTMENT COMPANIES.

Section 301 of the Small Business Investment Act of 1958 (15 U.S.C. 681) is amended by striking from subsection (a) "has succession for a period of not less than thirty years unless sooner dissolved by its shareholders or partners" and inserting in lieu thereof ", if incorporated, has succession for a period of not less than thirty years unless sooner dissolved by its shareholders, and if a limited partnership, has succession for a period of not less than ten years,".

SEC. 106. PERIODIC SMALL BUSINESS INVESTMENT COMPANY DEBENTURE SALES.

(a) IN GENERAL.—Title III of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"PERIODIC ISSUANCE OF GUARANTEES AND TRUST CERTIFICATES

15 USC 687m

"SEC. 322. The Administration shall issue guarantees under section 303 and trust certificates under section 321 at periodic intervals of not less than every three months and shall do so at such shorter intervals as its deems appropriate, taking into consideration the amount and number of such guarantees or trust certificates.".

(b) CLERICAL AMENDMENT.—The table of sections for title III is amended by adding the following new item:

"Sec. 322. Periodic issuance of guarantees and trust certificates.".

15 USC 637 note

SEC. 107. GENERAL ACCOUNTING OFFICE EVALUATION OF THE SERVICE CORPS OF RETIRED EXECUTIVES.

Reports.

The Comptroller General shall, not later than December 1, 1989, transmit a report to the Small Business Committees of the Senate and the House of Representatives on the functions being performed by volunteers in the Service Corps of Retired Executives and the Active Corps of Executives. Such report shall include his evaluation of the programs and shall include conclusions and recommendations concerning the efficiency and cost effectiveness of such volunteers.

SEC. 108. PARTICIPATION IN THE SMALL BUSINESS INNOVATION AND RESEARCH PROGRAM.

Subsection (j) of section 9 of the Small Business Act (15 U.S.C. 638(j)) is amended as follows:

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding the following new paragraphs:

"(6) standardized and orderly withdrawal from program participation by an agency having a SBIR program; at the discretion of the Administration, such directives may require a phased withdrawal over a period of time sufficient in duration to minimize any adverse impact on small business concerns; and

"(7) the voluntary participation in a SBIR program by a Federal agency not required to establish such a program pursuant to subsection (f).".

15 USC 639 note.

SEC. 109. SBA PROGRAM DATA AND EVALUATION.

The Small Business Administration shall develop a comprehensive system to systematically acquire data on the number of small businesses which participate in Administration programs, the nature and extent of their participation, the type of business, the results of such participation, and such other information as the Administration deems appropriate. It shall also include the number

and dollar amount of guaranteed loans by lender, and the interest rate thereon, and the number and dollar amount of sales in the secondary market both by lender and by purchaser. The data shall be compiled and maintained to permit a statistically valid analysis and computation and evaluation of costs and benefits. The Administration shall submit a report to the Small Business Committees of the Senate and the House of Representatives not later than March 31, 1989, such report to include its conclusions and recommendations and estimate of the costs involved in implementing such a program and shall implement the system for all program assistance made available on or after October 1, 1989. Reports.

SEC. 110. BREAKOUT PROCUREMENT CENTER REPRESENTATIVES.

Subsection (l) of section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) by striking the term "unrestricted" from subparagraph (D) of paragraph (2) each place such term appears;

(2) by amending subparagraph (E) of paragraph (2) to read as follows:

"(E) have access to procurement records and other data of the procurement center commensurate with the level of such representative's approved security clearance classification;";

(3) by amending paragraph (3) to read as follows:

"(3) A breakout procurement center representative is authorized to appeal the failure to act favorably on any recommendation made pursuant to paragraph (2). Such appeal shall be filed and processed in the same manner and subject to the same conditions and limitations as an appeal filed by the Administrator pursuant to subsection (a).";

(4) by amending paragraph (6) to read as follows:

"(6) For purposes of this subsection, the term 'major procurement center' means a procurement center that, in the opinion of the Administrator, purchases substantial dollar amounts of other than commercial items and which has the potential to incur significant savings as the result of the placement of a breakout procurement center representative"; and

102 STAT. 2995

(5) by adding the following new paragraph:

"(7)(A) At such times as the Administrator deems appropriate, the breakout procurement center representative shall conduct familiarization sessions for contracting officers and other appropriate personnel of the procurement center to which such representative is assigned. Such sessions shall acquaint the participants with the provisions of this subsection and shall instruct them in methods designed to further the purposes of such subsection.

"(B) The breakout procurement center representative shall prepare and personally deliver an annual briefing and report to the head of the procurement center to which such representative is assigned. Such briefing and report shall detail the past and planned activities of the representative and shall contain such recommendations for improvement in the operation of the center as may be appropriate. The head of such center shall personally receive such briefing and report and shall, within sixty calendar days after receipt, respond, in writing, to each recommendation made by such representative.". Reports.

SEC. 111. AMENDMENTS RELATING TO REVOLVING FUNDS.

(a) TECHNICAL AMENDMENT.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) by striking from paragraph (1) "III" and inserting in lieu thereof "III, IV"; and

(2) by striking from paragraph (2) "III" and inserting in lieu thereof "III, IV"; and

(b) REPEALER.—Section 403 of the Small Business Investment Act of 1958 (15 U.S.C. 694) is hereby repealed. Any moneys remaining in the Lease Guarantee Fund on the date of enactment of this Act shall 15 USC 694 note.

be transferred to the Small Business Administration's business loan and investment fund.

(c) POLLUTION CONTROL GUARANTEED LOANS.—Section 7(a)(12) of the Small Business Act (15 U.S.C. 636(a)(12)) is amended—

(1) by inserting "(A)" after "(12)"; and

(2) by adding at the end thereof the following new subparagraph:

Environmental protection.

"(b) The Administration may provide deferred participation loans under this subsection to finance the planning, design, or installation of pollution control facilities for the purposes set forth in section 404 of the Small Business Investment Act of 1958. Notwithstanding the limitation expressed in paragraph (3) of this subsection, a loan made under this paragraph may not result in a total amount outstanding and committed to a borrower from the business loan and investment fund of more than $1,000,000.".

15 USC 697b.

(d) TECHNICAL AMENDMENTS TO SECTION 505.—(1) Section 505 of the Small Business Investment Act of 1958 is amended by striking from subsection (a) "all of a" and by inserting in lieu thereof "all or a".

(2) Such section is further amended by inserting the following title at the beginning of such section:

102 STAT. 2996

"POOLING OF DEBENTURES".

(3) The table of contents for title V of such Act is amended by adding after the item relating to section 504 the following new item:

"Sec. 505. Pooling of debentures.".

SEC. 112. DEVELOPMENT COMPANY LOAN PROGRAM.

(a) PERMANENT EXTENSION OF PILOT PROGRAM.—Section 504 of the Small Business Investment Act of 1958 (15 U.S.C. 697a) is amended to read as follows:

"PRIVATE DEBENTURE SALES

"SEC. 504. (a) Notwithstanding any other law, rule, or regulation, the Administration shall sell to investors, either publicly or by private placement, debentures pursuant to section 503 of this title as follows:

"(1) Of the program levels otherwise authorized by law for fiscal year 1986, an amount not to exceed $200,000,000.

"(2) Of the program levels otherwise authorized by law for each of fiscal years 1987 and 1988, an amount not to exceed $425,000,000.

"(3) All of the program levels authorized for fiscal year 1989 and subsequent fiscal years.

"(b) Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire –

"(1) any obligation the payment of principal or interest on which at any time has been guaranteed in whole or in part under section 503 of this title and which is being sold pursuant to the provisions of the program authorized in this section;

"(2) any obligation which is an interest in any obligation described in paragraph (1); or

"(3) any obligation which is secured by, or substantially all of the value of which is attributable to, any obligation described in paragraph (1) or (2).".

(b) The table of contents for title V of such Act is amended by adding after the item relating to section 503 the following new item:

"Sec. 504. Private debenture sales.".

(c) COMMERCIAL LOAN INTEREST RATE.—

(1) IN GENERAL.—Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and

(B) by inserting after subsection (b) the following new subsection:

"(c)(1) The purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans from certified development companies to small business concerns.

"(2) Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest which may be charged, taken, received, or reserved, the maximum legal rate of interest on any commercial loan which funds any portion of the cost of the project financed pursuant to this section or section 504 which is not funded by a debenture guaranteed under this section shall be a rate which is established by the Administrator of the Small Business Administration under the authority of this section.

"(3) The Administrator is authorized and directed to establish and publish quarterly a maximum legal interest rate for any commercial loan which funds any portion of the cost of the project financed pursuant to this section or section 504 which is not funded by a debenture guaranteed under this section.". 102 STAT. 2997

(2) REPEALER.—The amendment made by paragraph (1) shall be repealed on October 1, 1990. 15 USC 697 note.

SEC. 113. SECONDARY MARKET IN DEVELOPMENT COMPANY LOANS.

Section 5 of the Small Business Act (15 U.S.C. 634) is amended by striking from subsection (g) "except those" and by inserting in lieu thereof "except separate trust certificates shall be issued for loans approved".

SEC. 114. DEVELOPMENT COMPANY DEBENTURES.

Section 503(a)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 697(a)(2)) is amended by inserting before the period at the end thereof the following: ": *Provided,* That the Administration shall not decline to issue such guarantee when the ownership interests of the small business concern and the ownership interests of the property to be financed with the proceeds of a loan made pursuant to subsection (b)(1) are not identical because one or more of the following classes of relatives have an ownership interest in either the small business concern or the property: father, mother, son, daughter, wife, husband, brother, or sister: *Provided further,* That the Administrator or his designee has determined on a case-by-case basis that such ownership interest, such guarantee, and the proceeds of such loan, will substantially benefit the small business concern".

SEC. 115. DEVELOPMENT COMPANY LOANS—POLICY.

(a) POLICY.—Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695) is amended by redesignating subsections (a) and (b) as subsections (b) and (c), respectively, and by adding the following new subsection prior thereto: Urban areas. Rural areas.

"(a) The Congress hereby finds and declares that the purpose of this title is to foster economic development in both urban and rural areas by providing long term financing for small business concerns through the development company program authorized by this title. In order to carry out this objective, the Administration is hereby directed to place greater emphasis on the needs of rural areas and the promotion of the development company program in such areas, and is further directed to develop a plan for greater outreach of procurement and export trade seminars in such areas. As used in this title, the term 'rural areas' means those localities with populations of less than 20,000.".

(b) TECHNICAL AMENDMENTS TO THE SECTION.—(1) Title V of such Act is further amended by inserting the following heading at the beginning of section 501:

"STATE DEVELOPMENT COMPANIES".

(2) The table of contents of such Act is amended by inserting before the item relating to section 502 the following new item:

"Sec. 502. State development companies.".

SEC. 116. DEVELOPMENT COMPANY LOANS—LEASED PREMISES.

(a) IN GENERAL.—Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is further amended by adding the
102 STAT. 2998 following at the end thereof:

"(4) If the project is to construct a new facility, up to 33 per centum of the total project may be leased, if reasonable projections of growth demonstrate that the assisted small business concern will need additional space within three years and will fully utilize such additional space within ten years.".

(b) TECHNICAL AMENDMENTS TO THE SECTION.—(1) Title V of such Act is further amended by inserting the following heading at the beginning of section 502:

"LOANS FOR PLANT ACQUISITION, CONSTRUCTION, CONVERSION, AND EXPANSION".

(2) The table of contents of such Act is amended by inserting before the item relating to section 503 the following new item:

"Sec. 502. Loans for plant acquisition, construction, conversion, and expansion.".

SEC. 117. DEVELOPMENT COMPANIES—STAFF AND OVERHEAD.

(a) STAFF.—Section 503(d) of the Small Business Investment Act of 1958 (15 U.S.C. 697(d)) is amended—

(1) by inserting "(1)" after "(d)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by adding at the end thereof the following new paragraph:

Rural areas. "(2) A company in a rural area shall be deemed to have satisfied the requirements of a full-time professional staff and professional management ability if it contracts with another certified development company which has such staff and management ability and which is located in the same general area to provide such services.".

(b) OVERHEAD.—The Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"RESTRICTIONS ON DEVELOPMENT COMPANY ASSISTANCE

15 USC 697c. "SEC. 506. NOTWITHSTANDING ANY OTHER PROVISION OF LAW: (1) on or after May 1, 1991, no development company may accept funding from any source, including but not limited to any department or agency of the United States Government, if such funding includes any conditions, priorities or restrictions upon the types of small businesses to which they may provide financial assistance under this title or if it includes any conditions or imposes any requirements, directly or indirectly, upon any recipient of assistance under this title; and (2) before such date, no department or agency of the United States Government which provides funding to any development company shall impose any condition, priority or restriction upon the type of small business which receives financing under this title nor shall it include any condition or impose any requirement, directly or indirectly, upon any recipient of assistance under this title: *Provided,* That the foregoing shall not affect any such conditions, priorities or restrictions if the department or agency also provides all of the financial assistance to be delivered by the development company to the small business and such conditions, priorities or restrictions are limited solely to the financial assistance so provided.".

(c) REPORT.—Not later than one hundred and eighty days after the effective date of this Act, the Small Business Administration shall report to the Small Business Committees of the Senate and the
102 STAT. 2999 House of Representatives on the amount and nature of all financial assistance or income being received by certified development companies from sources other than the Small Business Administration or those being assisted by the programs authorized in title V of the Small Business Investment Act of 1958. The report shall include any

conditions or restrictions imposed on the development companies due to such financial assistance, a comparison of all sources of income which comprise the development companies' budgets, an analysis of the financial impact of various sources of financial assistance, and the feasibility of restricting assistance received from the Federal Government solely to Small Business Administration funding.

(d) The table of contents of such Act is amended by inserting the following new item at the end thereof:

"Sec. 506. Restrictions on development company assistance.".

SEC. 118. DISASTER LOAN POLICY.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding the following new subsection:

"(g) In administering the disaster loan program authorized by section 7 of this Act, to the maximum extent possible, the Administration shall provide assistance and counseling to disaster victims in filing applications, providing information relevant to loan processing, and in loan closing and prompt disbursement of loan proceeds and shall give the disaster program a high priority in allocating funds for administrative expenses.".

SEC. 119. DEFINITION OF DISASTERS.

(a) NATURAL DISASTERS.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by striking from paragraph (1) of subsection (b) "floods, riots or civil disorders, or other catastrophes:" and inserting in lieu thereof "natural or other disasters:".

(b) IN GENERAL.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended—

(1) by adding the following new subsection:

"(k) For the purposes of this Act, the term 'disaster' means a sudden event which causes severe damage including, but not limited to, floods, hurricanes, tornadoes, earthquakes, fires, explosions, volcanoes, windstorms, landslides or mudslides, tidal waves, ocean conditions resulting in the closure of customary fishing waters, riots, civil disorders or other catastrophes, except it does not include economic dislocations."; and

(2) by redesignating the second subsection "(j)" as subsection "(l)".

SEC. 120. DISASTER ASSISTANCE.

(a) ECONOMIC INJURY.—Section 7(c) of the Small Business Act (15 U.S.C. 636(c)) is amended by adding the following new paragraph:

"(7) The Administration shall not withhold disaster assistance pursuant to this paragraph to nurseries who are victims of drought disasters. As used in section 7(b)(2) the term "an area affected by a disaster" includes any county, or county contiguous thereto, determined to be a disaster by the President, the Secretary of Agriculture or the Administrator of the Small Business Administration.".

(b) INTEREST RATES.—Section 7(c) of the Act is further amended by striking "business concern" from paragraph (5)(C) and inserting in lieu thereof "business or other concern, including agricultural cooperatives,".

102 STAT. 3000

SEC. 121. DISASTER MITIGATION ACTIONS.

Section 7 of the Small Business Act (15 U.S.C. 636) is further amended by inserting prior to the semicolon at the end of subsection (b)(1)(A) the following:

": *And provided further,* That the Administration may increase the amount of the loan by up to an additional 20 per centum if it determines such increase to be necessary or appropriate in order to protect the damaged or destroyed property from possible future disasters by taking mitigating measures, including, but not limited to, construction of retaining walls and sea walls, grading and contouring land, relocating utilities and modifying structures".

SEC. 122. UNSECURED DISASTER LOANS.

Section 7(c) of the Small Business Act (15 U.S.C. 636(c)) is further amended by striking from paragraph (6) "refinancing." and inserting in lieu thereof "refinancing: *Provided further,* That the Administration shall not require collateral for loans of $10,000 or less which are made under paragraph (1) of subsection (b).".

SEC. 123. NATIONAL DIRECTORY OF SMALL BUSINESSES.

The Small Business Administration shall undertake a study to determine the feasibility and need for developing an expanded national directory of small businesses to effectuate fully the purposes of section 15(a) of the Small Business Act. The Agency shall examine existing resources such as the PASS system, the advocacy data base, and other resources to ascertain the costs and other requirements necessary to effectuate such a directory, including a concern's capability, standard industrial codes and Federal supply numbers identifying such capability, and other data deemed relevant. The Small Business Administration shall submit a report to the Small Business Committees of the Senate and the House of Representatives not later than June 1, 1989. This report shall include conclusions and recommendations and an estimate of the costs involved in implementing such a system.

Reports.

SEC. 124. WOMEN-OWNED BUSINESS.

Section 303 of Public Law 96-302 (15 U.S.C. 631b) is amended by adding the following new subsection:

"(e) The information and data required to be reported pursuant to subsection (a) shall separately detail those portions of such information and data that are relevant to—

"(1) small business concerns owned and controlled by socially and economically disadvantaged individuals as defined pursuant to section 8(d) of the Small Business Act; and

"(2) small business concerns owned and controlled by women.".

SEC. 125. ANALYSIS OF FINANCING SOURCES.

(a) STUDY.—Not later than June 1, 1989, or one hundred and eighty days after the effective date of this section (whichever is later), the Office of the Chief Counsel for Advocacy of the Small Business Administration (hereinafter referred to in this section as the "Office") shall conduct and complete a study to determine, with respect to the service sector of the economy—

102 STAT. 3001

(1) the level of demand for debt capital by small business concerns;

(2) the level of availability of such capital for such concerns; and

(3) how new or innovative financing techniques or the improvement of existing techniques can be used to satisfy the unmet demand for such capital by such concerns consistent with acceptable standards of safety and soundness for loans and investments made by commercial and business lenders and institutional investors.

(b) CONSULTATION AND COOPERATION.—In performing such study, the Office shall consult with the Federal Reserve Board, the Comptroller of the Currency, the Department of Commerce, other relevant agencies and departments of Government, trade and professional associations, and other organizations representing the interest of such business and service sector business concerns. Each department and agency shall afford the Office such assistance and cooperation as may be necessary to achieve the purposes of this subsection.

(c) REPORT.—The study performed pursuant to subsection (a) shall be reported to the Committees on Small Business of the Senate and House of Representatives within one hundred and eighty days after the effective date of this section.

SEC. 126. EFFECTIVE DATA COLLECTION ON WOMEN-OWNED BUSINESS.

(a) STUDY.—Not later than June 1, 1989, or one hundred and eighty days after the effective date of this section (whichever is later), the Office of the Chief Counsel for Advocacy of the Small Business Administration (hereinafter referred to in this section as the "Office") shall conduct and complete a study to determine the most cost effective and accurate means to gather and present data on women-owned businesses, including data on sole proprietorship, partnership, Sub S corporations and regular corporations.

(b) CONSULTATION AND COOPERATION.—In performing such study, the Office shall consult with the Department of Labor, including the Bureau of Labor Statistics, the Department of Commerce, including the Bureau of the Census, the Internal Revenue Service, other relevant agencies and departments of Government, trade and professional associations, and other organizations representing the interest of women-owned businesses. Each department and agency shall afford the Office such assistance and cooperation as may be necessary to achieve the purposes of this subsection.

(c) REPORT.—The study performed pursuant to subsection (a), together with such recommendations for legislative or administrative change as may be appropriate, shall be reported to the Committees on Small Business of the Senate and House of Representatives within one hundred and eighty days after the effective date of this section.

SEC. 127. MANAGEMENT AND TECHNICAL ASSISTANCE FOR WOMEN-OWNED SMALL BUSINESS.

(a) ESTABLISHMENT.—Subsection (c) of section 8 of the Small Business Act (15 U.S.C. 637(c)) is amended to read as follows:

"(c)(1) Subject to the requirements of paragraph (2), the Administration shall provide financial assistance to private organizations to conduct demonstration projects for the benefit of small business concerns owned and controlled by women. 102 STAT. 3002

"(2) No amount of financial assistance shall be provided pursuant to this subsection unless the recipient organization agrees, as a condition of receiving such assistance, that—

"(A) it will obtain, after its application has been approved but prior to the disbursement of funds pursuant to this subsection, cash contributions from private sector sources in an amount at least equal to the amount of funds such organization will receive under this subsection; and

"(B) it will provide the types of services and assistance to present and potential women owners of small business concerns as are described in paragraph (3). For the purposes of this subsection such concerns may be either 'start-up' businesses or established 'on-going' concerns.

"(3) The types of services and assistance referred to in paragraph (2)(B) shall include the following:

"(A) financial assistance, which assistance shall include training and counseling in how to apply for and secure business credit and investment capital; prepare and present financial statements; manage cash flow and otherwise manage the financial operations of a business concern;

"(B) management assistance, which assistance shall include training and counseling in how to plan, organize, staff, direct and control each major activity and function of a small business concern; and

"(C) marketing assistance, which assistance shall include training and counseling in how to identify and segment domestic and international market opportunities; prepare and execute marketing plans; develop pricing strategies; locate contract opportunities; negotiate contracts; and utilize varying public relations and advertising techniques.

"(4) Applications for financial assistance pursuant to this subsection shall be evaluated and ranked in accordance with predeter-

mined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. Such criteria shall include—

Public information.

"(A) a criterion that specifically refers to the experience of the offering organization in conducting programs or on-going efforts designed to impart or upgrade the business skills of women business owners or potential owners;

"(B) a criterion that specifically refers to the present ability of the offering organization to commence a demonstration project within a minimum amount of time; and

"(C) a criterion that specifically refers to the ability of the applicant organization to provide training and services to a representative number of women who are both socially and economically disadvantaged.

Grants. Contracts.

"(5) The financial assistance authorized pursuant to this subsection shall be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way or reimbursement.

Reports.

"(6)(A) The Administration shall prepare and transmit a report to the Committees on Small Business of the Senate and House of Representatives on the effectiveness of all demonstration projects conducted under the authority of this subsection. Such report shall provide information concerning—

102 STAT. 3003

"(i) the number of individuals receiving assistance;

"(ii) the number of start-up business concerns formed;

"(iii) the gross receipts of assisted concerns;

"(iv) increases or decreases in profits of assisted concerns; and

"(v) the employment increases or decreases of assisted concerns.

"(B) The report required pursuant to paragraph (A) shall cover at least a twenty-four month period and shall be submitted not later than thirty months after the effective date of this paragraph.

Termination date.

"(7) This subsection shall cease to be effective after September 30, 1991.".

(b) TECHNICAL AMENDMENT.—Subsection (b) of section 8 of the Small Business Act (15 U.S.C. 637(b)) is amended by—

(1) striking out "and" at the end of paragraph (14);

(2) striking out "public." at the end of paragraph (15) and inserting in lieu thereof "public; and"; and

(3) by adding the following new paragraph:

"(16) to make studies of matters materially affecting the competitive strength of small business, and of the effect on small business of Federal laws, programs, and regulations, and to make recommendations to the appropriate Federal agency or agencies for the adjustment of such programs and regulations to the needs of small business.".

15 USC 637 note.

(c) AUTHORIZATION.—There is authorized to be appropriated $10,000,000 to carry out the demonstration projects required pursuant to subsection (a). The initial projects authorized to be financed by this section shall be funded by January 31, 1989. Notwithstanding any other provision of law, the Small Business Administration may use such expedited acquisition methods as it deems appropriate to achieve the purposes of this subsection, except that it shall insure that all eligible sources are provided a reasonable opportunity to submit proposals.

15 USC 637 note.

(d) DEFINITION.—For the purposes of this section, the term "small business concern owned and controlled by women" means any small business concern—

(1) that is at least 51 per centum owned by one or more women; and

(2) whose management and daily business operations are controlled by one or more of such women.

15 USC 637 note.

(e) New spending authority or authority to enter into contracts as authorized in this section shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

SEC. 128. NEW PROCUREMENT CENTER REPRESENTATIVES.

(a) EMPLOYMENT OF REPRESENTATIVE.—(1) Within one hundred and eighty days after the effective date of this title, the Small Business Administration shall have completed such measures as may be necessary to employ seven procurement center representatives to be stationed in States where no such representatives are stationed or designated to be stationed as of such effective date.

(2) The representatives employed pursuant to paragraph (1) shall be in addition to and not in lieu of any representatives that may be employed pursuant to any other provision of law or under any exercise of administrative discretion and stationed in such States at the present time.

102 STAT. 3004

SEC. 129. RURAL AREA BUSINESS DEVELOPMENT PLANS.

15 USC 637 note.

Within six months of the effective date of this Act, the Administrator shall identify each Federal agency having substantial procurement or grantmaking authority and shall notify each agency so identified. Within six months of notification, each agency shall develop rural area business enterprise development plans. Such plans shall establish rural area enterprise development objectives for the agency and methods for encouraging prime contractors, subcontractors and grant recipients to use small business concerns located in rural areas as subcontractors, suppliers, and otherwise. Such plans shall, to the extent the agency deems appropriate and feasible, include incentive techniques as encouragement.

SEC. 130. INCREASED CONTRACT OPPORTUNITIES.

(1) REPORT.—Not later than one hundred and eighty days after the effective date of this section, the Chief Counsel for Advocacy of the Small Business Administration (hereinafter referred to as the "Chief Counsel") shall report to the Small Business Committees of the Senate and the House of Representatives, including—

(a) an assessment (based on information available to him) of the extent to which the employees of Federal agencies and departments are performing professional and technical services for foreign governments (or other non-domestic entities) for which there are responsible domestic sources, and

(b) recommendations for specific steps by the Administration or other agencies to develop further information with respect to the foregoing issue.

(2) COOPERATION.—In preparing the report, the Chief Counsel shall consult with the Office of Management and Budget, the Department of Commerce, Department of the Interior, other relevant agencies of the Government, and trade and professional associations representing the interests of small business concerns. Each agency and department head shall afford the Chief Counsel assistance and cooperation to facilitate compilation and submission of his report.

SEC. 131. PRIVATE SECTOR COOPERATION.

(a) EXTENSION OF EFFECTIVE DATE.—Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) is amended by striking the first sentence and inserting the following: "The amendments made to section 4(b)(3) of the Small Business Act by section 3 of this Act are repealed on October 1, 1988. The amendments made to section 8(b)(1)(A) of the Small Business Act by section 5(a)(2) of this Act are repealed on October 1, 1990.".

(b) COSPONSORED EVENTS.—Section 8(b)(1)(A) of the Small Business Act (15 U.S.C. 637(b)(1)(A)) is amended—

(1) by inserting after "*Provided*, That the Administration shall take such actions as it deems appropriate to ensure" the following: "that any Administration program participating in such cosponsored activities receives appropriate recognition and publicity, and";

(2) by adding at the end thereof the following: "In the case of cosponsored activities which include the participation of a Federal, State, or local public official or agency, the Administration

Sec. 130. Increased contract opportunities.
Sec. 131. Private sector cooperation.
Sec. 132. Background check policy—fingerprinting.
Sec. 133. Amendments relating to program for blind and handicapped.
Sec. 134. Miscellaneous amendments.
Sec. 135. Funding extensions.
Sec. 136. Promulgation of rules.
Sec. 137. Effective date.

TITLE II—PREFERRED SURETY BOND GUARANTEE PROGRAM

Sec. 201. Short title.
Sec. 202. Authority of the administration.
Sec. 203. Indemnification.
Sec. 204. Reports and audits of participating sureties.
Sec. 205. Regulations.
Sec. 206. Evaluation and report.
Sec. 207. Sunset.
Sec. 208. Revolving fund.
Sec. 209. Effective date.

TITLE I—GENERAL REAUTHORIZATION PROVISIONS

SEC. 101. PROGRAM LEVELS AND AUTHORIZATIONS.

Loans.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking the first sentence of subsection (a), by striking subsections (b) through (x), by redesignating subsections (y) and (z) as subsections (b) and (c), and by adding the following new subsections:

"(d) The following program levels are authorized for fiscal year 1989—

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $62,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $17,000,000 in loans as provided in paragraph (10), $24,000,000 in loans as provided in paragraph (11), and $21,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of section 7(a) of this Act;

"(2) for the programs authorized by secton 7(a) of this Act and section 504 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,407,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $65,000,000 in loans as provided in paragraph (11), $60,000,000 in loans as provided in paragraph (12), and $460,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 504;

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $39,000,000 in direct purchases of debentures and preferred securities and to make $272,000,000 in guarantees of debentures;

"(4) for the programs authorized by part B of title IV of the Small Busness Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,500,000,000; and

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is not authorized to enter into any guarantees.

"(e) There are authorized to be appropriated to the Administration for fiscal year 1989 such sums as may be necessary to carry out the provisions of this Act and the Small Business Investment Act of 1958, including $228,000,000 for salaries and expenses of the Administration, of which up to $2,600,000 may be available for the

contract subject to paragraph (2)(A) is entered into, and shall include in its report the amount of the next higher bid submitted by a for-profit small business concern. The Office of Federal Procurement Policy shall collect data reported under the preceding sentence through the Federal procurement data system and shall report to the Administration which shall notify all such agencies and departments when the maximum amount of awards authorized under paragraph (2)(A) has been made during any fiscal year. Records.

"(6) For the purpose of this subsection, a contract may be awarded only if at least 75 per centum of the direct labor performed on each item being produced under the contract in the sheltered workshop or performed in providing each type of service under the contract by the sheltered workshop is performed by handicapped individuals.". Contracts.

(b) REPORT.—Not later than September 30, 1992, the General Accounting Office shall prepare a report describing the impact that contracts awarded under section 15(c) of the Small Business Act have had on for-profit small business concerns for fiscal years 1989 through 1991. The report shall be transmitted to the Committees on Small Business of the Senate and the House of Representatives. 15 USC 644 note.

(c) TASK FORCE.—There is established within the Small Business Administration a task force on purchases from the blind and severely handicapped which shall consist of one representative of the small business community appointed by the Administrator of the Small Business Administration and one individual knowledgeable in the affiars of or experienced in the work of sheltered workshops appointed by the Executive Director of the Committee for Purchase from the Blind and Other Severely Handicapped established under the first section of the Act entitled "An Act to create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938 (41 U.S.C. 46). The task force shall meet at least once every six months for the purpose of reviewing the award of contracts under section 15(c) of the Small Business Act and recommending to the Small Business Administration such administrative or statutory changes as it deems appropriate. 15 USC 644 note.

SEC. 134. MISCELLANEOUS AMENDMENTS.

Section 21 of the Small Business Act (15 U.S.C. 648) is amended—

(1) by striking "Deputy Associate Administrator for Management Assistance" each place it appears in subsection (g) and inserting in lieu thereof "Associate Administrator for Small Business Development Centers";

(2) by striking in subsection (g) "the Associate Administrator for Management Assistance" and inserting "an official who is not more than one level below the Office of the Administrator"; and

3) by inserting the following at the end of subsection (k): "After the administration has entered a contract, either as a grant or a cooperative agreement, with any applicant under this section, it shall not suspend, terminate or fail to renew or extend any such contract unless the Administration provides the applicant with written notification setting forth the reasons therefor and affording the applicant an opportunity for a hearing, appeal or other administrative proceeding under the provisions of the Administrative Procedures Act.". Contracts.

102 STAT. 3007

SEC. 135. FUNDING EXTENSIONS.

The Small Business Act is amended as follows:

(1) by striking from subsection (z) of section 20 "1988 and 1989, $3,500,000" and by inserting in lieu thereof "1988 through 1990, $3,500,000"; 15 USC 631 note.

(2) by striking from subsection (z) "1988 and 1989, $5,000,000" and by inserting in lieu thereof "1988 through 1990, $5,000,000"; and

(3) by inserting in section 21(c)(5) after "to such center" the following: "or the date the Administration notifies the grantee 15 USC 648.

funded under subsection (a)(1) that funds are available for grant applications pursuant to subsection (a)(6), which ever date occurs last,".

SEC. 136. PROMULGATION OF RULES.

Regulations.
15 USC 631 note.

Notwithstanding any law, rule or regulation, the Small Business Administration shall promulgate final regulations to be effective on publication to carry out the provisions of this title within six months after the date of enactment.

15 USC 631 note.

SEC. 137. EFFECTIVE DATE.

This title shall be effective on the date of enactment, except that sections 118 through 122 shall be effective for all loan applications resulting from disaster declarations made on or after August 1, 1988, or from disaster declarations whose filing periods were open on October 1, 1988. Any new credit authority provided for in this Act is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

Preferred Surety Bond Guarantee Program Act of 1988.
15 USC 661 note.

TITLE II—PREFERRED SURETY BOND GUARANTEE PROGRAM

SEC. 201. SHORT TITLE.

This title may be cited as the "Preferred Surety Bond Guarantee Program Act of 1988".

SEC. 202. AUTHORITY OF THE ADMINISTRATION.

Section 411(a) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)) is amended to read as follows:

"(a)(1) The Administration may, upon such terms and conditions as it may prescribe, guarantee and enter into commitments to guarantee any surety against loss resulting from a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary thereto by a principal on any contract up to $1,250,000.

"(2) The terms and conditions of said guarantees and commitments may vary from surety to surety on the basis of the Administration's experience with the particular surety.

"(3) The Administration may authorize any surety, without further administration approval, to issue, monitor, and service such bonds subject to the Administration's guarantee.

102 STAT. 3008

"(4) No such guarantee may be issued, unless—

"(A) the person who would be principal under the bond is a small business concern;

"(B) the bond is required in order for such person to bid on a contract, or to serve as a prime contractor or subcontractor thereon;

"(C) such person is not able to obtain such bond on reasonable terms and conditions without a guarantee under this section; and

"(D) there is a reasonable expectation that such principal will perform the covenants and conditions of the contract with respect to which such bond is required, and the terms and conditions of such bond are reasonable in the light of the risks involved and the extent of the surety's participation.".

SEC. 203. INDEMNIFICATION.

(a) IN GENERAL.—Section 411(b) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(b)) is amended—

(1) by striking paragraph (3),

(2) by striking "; and" and inserting a period at the end of paragraph (2),

(3) by redesignating paragraph (2) as paragraph (3),

(4) by inserting after paragraph (1) the following new paragraph:

"(2) a surety must obtain approval from the Administration prior to making any payments pursuant to this subsection unless the surety is participating under the authority of subsection (a)(3); and", and

(5) by inserting at the end the following new sentence:

"In no event shall the Administration pay a surety pursuant to this subsection an amount exceeding the guaranteed share of the bond available to such surety pursuant to subsection (a).".

(b) AMOUNT OF INDEMNIFICATION.—Section 411(c) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(c)) is amended to read as follows:

"(c) Any guarantee or agreement to indemnify under this section shall obligate the Administration to pay to the surety a sum—

"(1) not to exceed 70 per centum of the loss incurred and paid by a surety authorized to issue bonds subject to the Administration's guarantee under subsection (a)(3);

"(2) not to exceed 90 per centum of the loss incurred and paid in the case of a surety requiring the Administration's specific approval for the issuance of such bond, but in no event may the Administration make any duplicate payment pursuant to subsection (b) or any other subsection;

"(3) equal to 90 per centum of the loss incurred and paid in the case of a surety requiring the administration's specific approval for the issuance of a bond, if—

"(A) the total amount of the contract at the time of execution of the bond or bonds is $100,000 or less, or

"(B) the bond was issued to a small business concern owned and controlled by socially and economically disadvantaged individuals as defined by section 8(d) of the Small Business Act; or

Disadvantaged persons.

"(4) determined pursuant to subsection (b), if applicable.".

(c) LIMITATION OF ADMINISTRATION'S LIABILITY.—Section 411(e) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(e)) is amended—

102 STAT. 3009

(1) by striking "or" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting a comma, and

(3) by adding at the end thereof the following new paragraphs:

"(3) the surety has breached a material term or condition of such guarantee agreement, or

"(4) the surety has substantially violated the regulations promulgated by the Administration pursuant to subsection (d).".

SEC. 204. REPORTS AND AUDITS OF PARTICIPATING SURETIES.

Section 411(g) of the Small Business Investment Act (15 U.S.C. 694b(g)) is amended to read as follows:

"(g)(1) Each participating surety shall make reports to the Administration at such times and in such form as the Administration may require.

"(2) The Administration may at all reasonable times audit, in the offices of a participating surety, all documents, files, books, records, and other material relevant to the Administration's guarantee, commitments to guarantee, or agreements to indemnify any surety pursuant to this section.

"(3) Each surety participating under the authority of paragraph (3) of subsection (a) shall be audited at least once each year by examiners selected and approved by the Administration.".

SEC. 205. REGULATIONS.

15 USC 694b note.

The Administration shall promulgate final regulations to implement the amendments made by this title not later than one hundred and eighty days after the date of the enactment of this Act.

SEC. 206. EVALUATION AND REPORT.

15 USC 694b note.

Not later than three years after the date of enactment of this Act the Comptroller General of the United States shall transmit a

SEC. 2. REAUTHORIZATION.

5 USC app. Appropriation authorization.

Section 405 is amended to read as follows:

"There are authorized to be appropriated to carry out the provisions of this title and for no other purpose—

"(1) not to exceed $2,500,000 for the fiscal year ending September 30, 1989; and

"(2) not to exceed $3,500,000 for each of the 5 fiscal years thereafter.".

SEC. 3. OFFICE OF GOVERNMENT ETHICS TO FUNCTION INDEPENDENTLY.

(a) ESTABLISHMENT AS A SEPARATE EXECUTIVE AGENCY.—Section 401(a) is amended by striking out "in the Office of Personnel Management an office to be known as" and inserting "an executive agency to be known as". 5 USC app.

(b) APPOINTMENT AND CONTRACTING AUTHORITY.—Section 401 is amended by adding at the end the following: 5 USC app.

"(c) The Director may—

"(1) appoint officers and employees, including attorneys, in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code; and

"(2) contract for financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) with the General Services Administration, or such other Federal agency as the Director determines appropriate, for which payment shall be made in advance, or by reimbursement, from funds of the Office of Government Ethics in such amounts as may be agreed upon by the Director and the head of the agency providing such services.

Contract authority under paragraph (2) shall be effective for any fiscal year only to the extent that appropriations are available for that purpose.". Effective date.

SEC. 4. REPORTS TO CONGRESS. 5 USC app.

The Ethics in Government Act of 1978 is amended by adding after section 407 the following:

102 STAT. 3032

"REPORTS TO CONGRESS

"SEC. 408. The Director shall, no later than March 31 of each year in which the second session of a Congress begins, submit to the Congress a report containing—

"(1) a summary of the actions taken by the Director during a 2-year period ending on December 31 of the preceding year in order to carry out the Director's functions and responsibilities under this title; and

"(2) such other information as the Director may consider appropriate.".

SEC. 5. AGENCY PROCEDURES RELATING TO FINANCIAL DISCLOSURE STATEMENTS.

Section 402 is amended by adding after subsection (c) the following: 5 USC app.

"(d)(1) The Director shall, by the exercise of any authority otherwise available to the Director under this title, ensure that each executive agency has established written procedures relating to how the agency is to collect, review, evaluate, and, if applicable, make publicly available, financial disclosure statements filed by any of its officers or employees.

"(2) In carrying out paragraph (1), the Director shall ensure that each agency's procedures are in conformance with all applicable requirements, whether established by law, rule, regulation, or Executive order.".

SEC. 6. INFORMATION TO BE REPORTED BY EXECUTIVE AGENCIES.

Section 402 is amended by adding after subsection (d) (as added by section 5) the following: 5 USC app.

report to the Small Business Committees of the Senate and House of Representatives, which evaluates—

(1) the amendments made by this title,

(2) whether participation in the program by standard surety firms has been expanded, and

(3) whether access to bonds by small business concerns especially small business concerns owned and controlled by socially and economically disadvantaged individuals has been improved.

The report shall cover the first two full fiscal years following the date of enactment of this Act.

15 USC 694b note. Termination date.

SEC. 207. SUNSET.

The provisions contained in section 411(a)(3) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)(3)), shall cease to be effective on September 30, 1991, or on the last day of the third full fiscal year after the date of enactment of this Act, whichever is later.

SEC. 208. REVOLVING FUND.

Section 412 of the Small Business Investment Act of 1958 (15 U.S.C. 694c) is amended—

(1) by inserting "(a)" before "There", and

(2) by adding at the end of subsection (a), the following new subsection:

102 STAT. 3010

"(b) Such sums as may be appropriated to the Fund to carry out the programs authorized by this part shall be without fiscal year limitation.".

15 USC 694b note.

SEC. 209. EFFECTIVE DATE.

Except as otherwise provided in this title, the provisions of this title shall become effective upon expiration of one hundred and eighty days after the date of its enactment.

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 4174 (S. 2619):

HOUSE REPORTS: No. 100-694 (Comm. on Small Business).
SENATE REPORTS: No. 100-416 accompanying S. 2619 (Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 6, considered and passed House.
July 14, S. 2619 considered in Senate; proceedings vacated and H.R. 4174, amended, passed in lieu.
Oct. 5, House agreed to conference report.
Oct. 20, Senate agreed to conference report.

102 STAT. 3031

Public Law 100-598
100th Congress

An Act

Nov. 3, 1988
[S. 2344]

To reauthorize the Office of Government Ethics, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Government organization and employees.

SECTION 1. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Ethics in Government Act of 1978 (5 U.S.C. App.).

Regulations.

"(e) In carrying out subsection (b)(10), the Director shall prescribe regulations under which—

Reports.

"(1) each executive agency shall be required to submit to the Office an annual report containing—

"(A) a description and evaluation of the agency's ethics program, including any educational, counseling, or other services provided to officers and employees, in effect during the period covered by the report; and

"(B) the position title and duties of—

"(i) each official who was designated by the agency head to have primary responsibility for the administration, coordination, and management of the agency's ethics program during any portion of the period covered by the report; and

"(ii) each officer or employee who was designated to serve as an alternate to the official having primary responsibility during any portion of such period; and

"(C) any other information that the Director may require in order to carry out the responsibilities of the Director under this title; and

"(2) each executive agency shall be required to inform the Director upon referral of any alleged violation of Federal conflict of interest law to the Attorney General pursuant to section 535 of title 28, United States Code, except that nothing under this paragraph shall require any notification or disclosure which would otherwise be prohibited by law.".

102 STAT. 3033

SEC. 7. CORRECTIVE ACTION.

5 USC app.

Section 402 is amended by adding after subsection (e) (as added by section 6) the following:

"(f)(1) In carrying out subsection (b)(9) with respect to executive agencies, the Director—

"(A) may—

Public information.

"(i) order specific corrective action on the part of an agency based on the failure of such agency to establish a system for the collection, filing, review, and, when applicable, public inspection of financial disclosure statements, in accordance with applicable requirements, or to modify an existing system in order to meet applicable requirements; or

"(ii) order specific corrective action involving the establishment or modification of an agency ethics program (other than with respect to any matter under clause (i)) in accordance with applicable requirements; and

"(B) shall, if an agency has not complied with an order under subparagraph (A) within a reasonable period of time, notify the President and the Congress of the agency's noncompliance in writing (including, with the notification, any written comments which the agency may provide).

"(2)(A) In carrying out subsection (b)(9) with respect to individual officers and employees—

"(i) the Director may make such recommendations and provide such advice to such officers and employees as the Director considers necessary to ensure compliance with rules, regulations, and Executive orders relating to conflicts of interest or standards of conduct;

"(ii) if the Director has reason to believe that an officer or employee is violating, or has violated, any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may recommend to the head of the officer's or employee's agency that such agency head investigate the possible violation and, if the agency head finds such a violation, that such agency head take any appropriate disciplinary action (such as reprimand, suspension, demotion,

"(B) the head of officer's or employee's agency or, if such officer or employee is the agency head, to the President.

"(4) For purposes of paragraphs (2)(A) (ii), (iii), (iv), and (3)(B), in the case of an officer or employee within an agency which is headed by a board, committee, or other group of individuals (rather than by a single individual), any notification, recommendation, or other matter which would otherwise be sent to an agency head shall instead be sent to the officer's or employee's appointing authority.

"(5) Nothing in this title shall be considered to allow the Director (or any designee) to make any finding that a provision of title 18, United States Code, or any criminal law of the United States outside of such title, has been or is being violated.

102 STAT. 3035

Records.

"(6) Notwithstanding any other provision of law, no record developed pursuant to the authority of this section concerning an investigation of an individual for a violation of any rule, regulation, or Executive order relating to a conflict of interest shall be made available pursuant to section 552(a)(3) of title 5, United States Code, unless the request for such information identifies the individual to whom such records relate and the subject matter of any alleged violation to which such records relate, except that nothing in this subsection shall affect the application of the provisions of section 552(b) of title 5, United States Code, to any record so identified.".

SEC. 8. ANNUAL PAY OF DIRECTOR.

5 USC app.

Section 407 is amended to read as follows:

"ANNUAL PAY OF DIRECTOR

"SEC. 407. Chapter 53 of title 5, United States Code, is amended—

"(1) in section 5316 by striking out: 'Director of the Office of Government Ethics.'; and

"(2) in section 5314 by adding at the end thereof: 'Director of the Office of Government Ethics.' ".

SEC. 9. ADMINISTRATIVE PROVISIONS.

5 USC app.

Section 403 is amended by striking out "pursuant to subsections (b)(3) and (b)(4) of section 402." and inserting in lieu thereof "pursuant to the Office of Government Ethics responsibilities under this Act. The head of any agency may detail such personnel and furnish such services, with or without reimbursement, as the Director may request to carry out the provisions of this Act".

5 USC app.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) EXCEPTION.—The amendments made by section 3 shall take effect on October 1, 1989.

Approved November 3, 1988.

LEGISLATIVE HISTORY—S. 2344 (H.R. 4712):

HOUSE REPORTS: No. 100-1017, Pt. 1, accompanying H.R. 4712 (Comm. on Post Office and Civil Service).

SENATE REPORTS: No. 100-392 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 134 (1988):

June 28, considered and passed Senate.

Oct. 3, 4, considered and passed House, amended, in lieu of H.R. 4712.

Oct. 20, Senate concurred in House amendment with an amendment. House concurred in Senate amendment.

Public Law 100-690
100th Congress

102 STAT. 4181

An Act

To prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes.

Nov. 18, 1988
[H.R. 5210]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Anti-Drug Abuse Act of 1988.
21 USC 1501 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Drug Abuse Act of 1988".

SEC. 2. TABLE OF TITLES.

Title I—Coordination of national drug policy
Title II—Treatment and prevention programs
Title III—Drug education programs
Title IV—International narcotics control
Title V—User accountability
Title VI—Anti-drug abuse amendments act of 1988
Title VII—Death penalty and other criminal and law enforcement matters
Title VIII—Federal alcohol administration
Title IX—Miscellaneous
Title X—Supplemental appropriations

LEGISLATIVE HISTORY—H.R. 5210:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 7, 8, 14-16, 22, considered and passed House.
Oct. 13, 14, considered and passed Senate, amended.
Oct. 21, House concurred in Senate amendment with an amendment. Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Nov. 18, Presidential remarks.

Public Law 100-703
100th Congress

102 STAT. 4674

An Act

To authorize appropriations for the Patent and Trademark Office in the Department of Commerce, and for other purposes.

Nov. 19, 1988
[H.R. 4972]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—PATENT AND TRADEMARK OFFICE AUTHORIZATIONS

SECTION 101. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Patent and Trademark Office—

(1) for salaries and necessary expenses, $117,504,000 for fiscal year 1989, $125,210,000 for fiscal year 1990, and $111,984,000 for fiscal year 1991; and

(2) such additional amounts as may be necessary for each such fiscal year for increases in salary, pay, retirement, and other employee benefits authorized by law.

SEC. 102. APPROPRIATIONS AUTHORIZED TO BE CARRIED OVER.

35 USC 42 note.

Amounts appropriated under this Act and such fees as may be collected under title 35, United States Code, and the Trademark Act

of 1946 (15 U.S.C. 1051 and following) may remain available until expended.

SEC. 103. OVERSIGHT OF AND ADJUSTMENTS TO TRADEMARK AND PATENT FEES.

15 USC 1113 note.

(a) TRADEMARK FEES.—The Commissioner of Patents and Trademarks may not, during fiscal years 1989, 1990, and 1991, increase fees established under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113) except for purposes of making adjustments which in the aggregate do not exceed fluctuations during the previous three years in the Consumer Price Index, as determined by the Secretary of Labor. The Commissioner also may not establish additional fees under such section during such fiscal years.

35 USC 41 note.

(b) PATENT FEES.—The Commissioner of Patents and Trademarks may not, during fiscal years 1989, 1990, and 1991, increase fees established under section 41(d) of title 35, United States Code, except for purposes of making adjustments which in the aggregate do not exceed fluctuations during the previous three years in the Consumer Price Index, as determined by the Secretary of Labor. The Commissioner also may not establish additional fees under such section during such fiscal years.

35 USC 14 note.

(c) REPORT TO CONGRESS.—The Secretary of Commerce shall, on the day on which the President submits the annual budget to the Congress, provide to the Committees on the Judiciary of the Senate and the House of Representatives—

(1) a list of patent and trademark fee collections by the Patent and Trademark Office during the preceding fiscal year;

102 STAT. 4675

(2) a list of activities of the Patent and Trademark Office during the preceding fiscal year which were supported by patent fee expenditures, trademark fee expenditures, and appropriations;

(3) budget plans for significant programs, projects, and activities of the Office, including out-year funding estimates;

(4) any proposed disposition of surplus fees by the Office; and

(5) such other information as the committees consider necessary.

SEC. 104. PUBLIC ACCESS TO PATENT AND TRADEMARK OFFICE INFORMATION.

(a) REPEAL.—Section 4 of Public Law 99-607 (35 U.S.C. 41 note) is repealed.

35 USC 41 note.

(b) MAINTENANCE OF COLLECTIONS.—The Commissioner of Patents and Trademarks shall maintain, for use by the public, paper or microform collections of United States patents, foreign patent documents, and United States trademark registrations arranged to permit search for and retrieval of information. The Commissioner may not impose fees for use of such collections, or for use of public patent or trademark search rooms or libraries. Funds appropriated to the Patent and Trademark Office shall be used to maintain such collections, search rooms, and libraries.

35 USC 41 note.

(c) FEES FOR ACCESS TO SEARCH SYSTEMS.—Subject to section 105(a), the Commissioner of Patents and Trademarks may establish reasonable fees for access by the public to automated search systems of the Patent and Trademark Office in accordance with section 41 of title 35, United States Code, and section 31 of the Trademark Act of 1946 (15 U.S.C. 1113). If such fees are established, a limited amount of free access shall be made available to all users of the systems for purposes of education and training. The Commissioner may waive the payment by an individual of fees authorized by this subsection upon a showing of need or hardship, and if such waiver is in the public interest.

SEC. 105. FUNDING OF AUTOMATED DATA PROCESSING RESOURCES.

(a) ALLOCATIONS.—Of amounts available to the Patent and Trademark Office for automatic data processing resources for fiscal years

1989, 1990, and 1991, not more than 30 percent of such amounts in each such fiscal year may be from fees collected under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113) and section 41 of title 35, United States Code. The Commissioner of Patents and Trademarks shall notify the Committees on the Judiciary of the Senate and the House of Representatives of any proposed reprogrammings which would increase or decrease the amount of appropriations expended for automatic data processing resources.

(b) USE OF REVENUES BY PATENT AND TRADEMARK OFFICE.—Except as otherwise specifically provided in this Act, Public Law 99-607, and section 42(c) of title 35, United States Code, the Patent and Trademark Office is authorized to use appropriated or apportioned fee revenues for any of its operations or activities.

SEC. 106. USE OF EXCHANGE AGREEMENTS RELATING TO AUTOMATIC DATA PROCESSING RESOURCES PROHIBITED. 35 USC 6 note.

The Commissioner of Patents and Trademarks may not, during fiscal years 1989, 1990, and 1991, enter into any agreement for the exchange of items or services (as authorized under section 6(a) of title 35, United States Code) relating to automatic data processing resources (including hardware, software and related services, and machine readable data), and the Commissioner may not, on or after the date of the enactment of this Act, continue existing agreements for the exchange of such items or services. The preceding sentence shall not apply to an agreement relating to data for automation programs which is entered into with a foreign government or with an international intergovernmental organization.

102 STAT. 4676

TITLE II—PATENT MISUSE REFORM

SEC. 201. PERMISSIBLE ACTS BY PATENT OWNER.

Section 271(d) of title 35, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; (4) refused to license or use any rights to the patent; or (5) conditioned the license of any rights to the patent or the sale of the patented product on the acquisition of a license to rights in another patent or purchase of a separate product, unless, in view of the circumstances, the patent owner has market power in the relevant market for the patent or patented product on which the license or sale is conditioned.".

SEC. 202. EFFECTIVE DATE. 35 USC 271 note.

The amendment made by this title shall apply only to cases filed on or after the date of the enactment of this Act.

Approved November 19, 1988.

LEGISLATIVE HISTORY—H.R. 4972:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 5, considered and passed House.
Oct. 14, considered and passed Senate, amended.
Oct. 20, House concurred in Senate amendment with an amendment.
Oct. 21, Senate concurred in House amendment.

102 STAT. 4689 Public Law 100-707
100th Congress

An Act

Nov. 23, 1988
[H.R. 2707]

To amend the Disaster Relief Act of 1974 to provide for more effective assistance in response to major disasters and emergencies, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public health and safety. State and local governments. The Disaster Relief and Emergency Assistance Amendments of 1988. 42 USC 5121 note.

TITLE I—DISASTER RELIEF AND EMERGENCY ASSISTANCE AMENDMENTS

SEC. 101. SHORT TITLE; AMENDMENTS TO DISASTER RELIEF ACT OF 1974.

(a) SHORT TITLE.—This title may be cited as "The Disaster Relief and Emergency Assistance Amendments of 1988.".

(b) AMENDMENTS TO DISASTER RELIEF ACT OF 1974.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Disaster Relief Act of 1974 (42 U.S.C. 5121-5202).

The Robert T. Stafford Disaster Relief and Emergency Assistance Act. 42 USC 5121 note.

SEC. 102. AMENDMENT TO SHORT TITLE.

(a) AMENDMENT TO SHORT TITLE.—The first section is amended by striking out "Disaster Relief Act of 1974" and inserting in lieu thereof "The Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

42 USC 5121 note.

(b) REFERENCES.—Whenever any reference is made in any law (other than this Act), regulation, document, rule, record, or other paper of the United States to a section or provision of the Disaster Relief Act of 1974, such reference shall be deemed to be a reference to such section or provision of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

SEC. 103. AMENDMENTS TO TITLE I.

(a) FINDINGS AND DECLARATIONS.—Section 101(b) (42 U.S.C. 5121(b)) is amended—

(1) by striking out paragraph (7);

(2) by striking out "; and" at the end of paragraph (6); and

(3) by inserting "and" at the end of paragraph (5).

42 USC 5122.

(b) DEFINITION OF EMERGENCY.—Section 102(1) is amended to read as follows:

"(1) EMERGENCY.—'Emergency' means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.".

(c) DEFINITION OF MAJOR DISASTER.—Section 102(2) is amended to read as follows:

102 STAT. 4690

"(2) MAJOR DISASTER.—'Major disaster' means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.".

(d) TECHNICAL AMENDMENTS.—Paragraphs (3) and (4) of section 102 are each amended by striking out "the Canal Zone,". 42 USC 5122.

(e) LOCAL GOVERNMENT.— 42 USC 5122 note.

(1) IN GENERAL.—The term "local government" is deemed to have the same meaning in the Disaster Relief and Emergency Assistance Act, as amended by this Act, as that term had on October 1, 1988, under section 102(6) of the Disaster Relief Act of 1974 and regulations implementing the Disaster Relief Act of 1974.

(2) TERMINATION OF EFFECTIVENESS.—Paragraph (1) shall not be effective on and after the 90th day after the President transmits to the Committee on Public Works and Transportation of the House of Representatives and to the Committee on Environment and Public Works of the Senate a report which includes an interpretation of the term "local government" for purposes of the Disaster Relief and Emergency Assistance Act, as amended by this Act. President of U.S. Reports.

(f) DEFINITIONS OF PUBLIC AND PRIVATE NONPROFIT FACILITIES.—Section 102 is amended by adding at the end thereof the following new paragraphs:

"(8) PUBLIC FACILITY.—'Public facility' means the following facilities owned by a State or local government:

"(A) Any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility.

"(B) Any non-Federal-aid street, road, or highway.

"(C) Any other public building, structure, or system, including those used for educational, recreational, or cultural purposes.

"(D) Any park.

"(9) PRIVATE NONPROFIT FACILITY.—'Private nonprofit facility' means private nonprofit educational, utility, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the aged and disabled), other private nonprofit facilities which provide essential services of a governmental nature to the general public, and facilities on Indian reservations as defined by the President.".

SEC. 104. DISASTER PREPAREDNESS ASSISTANCE.

(a) MAXIMUM AMOUNT OF STATE DISASTER ASSISTANCE PLANNING GRANTS.—Section 201(d) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000". 42 USC 5131.

(b) TECHNICAL AMENDMENTS.—Section 201 is amended—

(1) in subsection (a) by striking out "(including the Defense Civil Preparedness Agency)"; and

(2) in subsection (d) by inserting "including evaluations of natural hazards and development of the programs and actions required to mitigate such hazards;" after "plans,".

102 STAT. 4691

SEC. 105. DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION.

(a) WAIVER OF CONDITIONS.—Title III is amended—

(1) by striking out the heading for such title and inserting in lieu thereof:

"TITLE III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION";

and

(2) by striking out sections 301 and 302 and inserting in lieu thereof the following new section: 42 USC 5141, 5142.

"SEC. 301. WAIVER OF ADMINISTRATIVE CONDITIONS. 42 USC 5141.

"Any Federal agency charged with the administration of a Federal assistance program may, if so requested by the applicant State

or local authorities, modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster.".

(b) COORDINATING OFFICERS.—

42 USC 5143. (1) REDESIGNATION.—Section 303, and any reference thereto, is redesignated as section 302.

(2) INCLUSION OF EMERGENCIES.—Such section is amended in subsection (a) by inserting "or emergency" after "major disaster".

42 USC 5144. (c) REDESIGNATION OF SECTION 304.—Section 304, and any reference thereto, is redesignated as section 303.

(d) REMOVAL OF EMERGENCY ASSISTANCE AND COOPERATION PROVISIONS FROM TITLE III; REDESIGNATION OF SECTIONS 307, 308, AND 309.—Title III is further amended by striking out sections 305 and 306 and by redesignating sections 307, 308, and 309, and any references thereto, as sections 304, 305, and 306, respectively.

42 USC 5145, 5146. 42 USC 5147-5149.

(e) USE OF LOCAL FIRMS AND INDIVIDUALS.—

42 USC 5150. (1) REDESIGNATION.—Section 310, and any reference thereto, is redesignated as section 307.

(2) INCLUSION OF EMERGENCIES.—Such section is amended by inserting "or emergency" after "major disaster" each place it appears.

(3) USE OF DEPARTMENT OF DEFENSE RESOURCES.—Such section is further amended by adding at the end thereof the following new sentence: "This section shall not be considered to restrict the use of Department of Defense resources in the provision of major disaster assistance under this Act.".

(f) REDESIGNATION OF SECTIONS 311 AND 312; CONFORMING AMENDMENT.—Sections 311 and 312, and any references thereto, are redesignated as sections 308 and 309, respectively. Such section 308, relating to nondiscrimination in disaster assistance, is amended by striking out "section 402 or 404 of" in subsection (b).

42 USC 5151, 5152.

(g) PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE.—Title III is amended by striking out section 313 and inserting in lieu thereof the following new section:

102 STAT. 4692

42 USC 5153. "SEC. 310. PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE.

President of U.S. "(a) PRIORITY.—In the processing of applications for assistance, priority and immediate consideration shall be given by the head of the appropriate Federal agency, during such period as the President shall prescribe, to applications from public bodies situated in areas affected by major disasters under the following Acts:

"(1) The United States Housing Act of 1937 for the provision of low-income housing.

"(2) Section 702 of the Housing Act of 1954 for assistance in public works planning.

"(3) The Community Development Block Grant Program under title I of the Housing and Community Development Act of 1974.

"(4) Section 306 of the Consolidated Farm and Rural Development Act.

"(5) The Public Works and Economic Development Act of 1965.

"(6) The Appalachian Regional Development Act of 1965.

"(7) The Federal Water Pollution Control Act.

"(b) OBLIGATION OF CERTAIN DISCRETIONARY FUNDS.—In the obligation of discretionary funds or funds which are not allocated among the States or political subdivisions of a State, the Secretary of Housing and Urban Development and the Secretary of Commerce shall give priority to applications for projects for major disaster areas.".

(h) INSURANCE.—Title III is further amended by striking out section 314 and inserting in lieu thereof the following new section:

or dismissal) against the officer or employee, except that, if the officer or employee involved is the agency head, any such recommendation shall instead be submitted to the President; and

"(II) shall notify the President in writing if the Director determines that the head of an agency has not conducted an investigation pursuant to subclause (I) within a reasonable time after the Director recommends such action;

"(iii) if the Director finds that an officer or employee is violating any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may order the officer or employee to take specific action (such as divestiture, recusal, or the establishment of a blind trust) to end such violation; and

"(II) shall, if the officer or employee has not complied with the order under subclause (I) within a reasonable period of time, notify, in writing, the head of the officer's or employee's agency of the officer's or employee's noncompliance, except that, if the officer or employee involved is the agency head, the notification shall instead be submitted to the President; and

"(iv) if the Director finds that an officer or employee is violating, or has violated, any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may recommend to the head of the officer's or employee's agency that appropriate disciplinary action (such as reprimand, suspension, demotion, or dismissal) be brought against the officer or employee, except that if the officer or employee involved is the agency head, any such recommendations shall instead be submitted to the President; and

"(II) may notify the President in writing if the Director determines that the head of an agency has not taken appropriate disciplinary action within a reasonable period of time after the Director recommends such action.

"(B)(i) In order to carry out the Director's duties and responsibilities under subparagraph (A) (iii) or (iv) with respect to individual officers and employees, the Director may conduct investigations and make findings concerning possible violations of any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct applicable to officers and employees of the executive branch.

"(ii)(I) Subject to clause (iv) of this subparagraph, before any finding is made under subparagraphs (A) (iii) or (iv), the officer or employee involved shall be afforded notification of the alleged violation, and an opportunity to comment, either orally or in writing, on the alleged violation.

"(II) The Director shall, in accordance with section 553 of title 5, United States Code, establish procedures for such notification and comment.

"(iii) Subject to clause (iv) of this subparagraph, before any action is ordered under subparagraph (A)(iii), the officer or employee involved shall be afforded an opportunity for a hearing, if requested by such officer or employee, except that any such hearing shall be conducted on the record.

"(iv) The procedures described in clauses (ii) and (iii) of this subparagraph do not apply to findings or orders for action made to obtain compliance with the financial disclosure requirements in title 2 of this Act. For those findings and orders, the procedures in section 206 of this Act shall apply.

"(3) The Director shall send a copy of any order under paragraph (2)(A)(iii) to—

"(A) the officer or employee who is the subject of such order; and

"SEC. 311. INSURANCE.

Real property.
42 USC 5154.
President of U.S.

"(a) APPLICANTS FOR REPLACEMENT OF DAMAGED FACILITIES.—

"(1) COMPLIANCE WITH CERTAIN REGULATIONS.—An applicant for assistance under section 406 of this Act (relating to repair, restoration, and replacement of damaged facilities), section 422 of this Act (relating to simplified procedure) or section 803 of the Public Works and Economic Development Act of 1965 shall comply with regulations prescribed by the President to assure that, with respect to any property to be replaced, restored, repaired, or constructed with such assistance, such types and extent of insurance will be obtained and maintained as may be reasonably available, adequate, and necessary, to protect against future loss to such property.

"(2) DETERMINATION.—In making a determination with respect to availability, adequacy, and necessity under paragraph (1), the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner responsible for regulation of such insurance.

"(b) MAINTENANCE OF INSURANCE.—No applicant for assistance under section 406 of this Act (relating to repair, restoration, and replacement of damaged facilities), section 422 of this Act (relating to simplified procedure), or section 803 of the Public Works and Economic Development Act of 1965 may receive such assistance for any property or part thereof for which the applicant has previously received assistance under this Act unless all insurance required pursuant to this section has been obtained and maintained with respect to such property.

102 STAT. 4693

"(c) STATE ACTING AS SELF-INSURER.—A State may elect to act as a self-insurer with respect to any or all of the facilities owned by the State. Such an election, if declared in writing at the time of acceptance of assistance under section 406 or 422 of this Act or section 803 of the Public Works and Economic Development Act of 1965 or subsequently and accompanied by a plan for self-insurance which is satisfactory to the President, shall be deemed compliance with subsection (a). No such self-insurer may receive assistance under section 406 or 422 of this Act for any property or part thereof for which it has previously received assistance under this Act, to the extent that insurance for such property or part thereof would have been reasonably available.".

(i) DUPLICATION OF BENEFITS.—Title III is further amended by striking out section 315 and inserting in lieu thereof the following new section:

"SEC. 312. DUPLICATION OF BENEFITS.

42 USC 5155.

"(a) GENERAL PROHIBITION.—The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.

President of U.S.

"(b) SPECIAL RULES.—

"(1) LIMITATION.—This section shall not prohibit the provision of Federal assistance to a person who is or may be entitled to receive benefits for the same purposes from another source if such person has not received such other benefits by the time of application for Federal assistance and if such person agrees to repay all duplicative assistance to the agency providing the Federal assistance.

"(2) PROCEDURES.—The President shall establish such procedures as the President considers necessary to ensure uniformity in preventing duplication of benefits.

President of U.S.

"(3) EFFECT OF PARTIAL BENEFITS.—Receipt of partial benefits for a major disaster or emergency shall not preclude provision

of additional Federal assistance for any part of a loss or need for which benefits have not been provided.

"(c) RECOVERY OF DUPLICATIVE BENEFITS.—A person receiving Federal assistance for a major disaster or emergency shall be liable to the United States to the extent that such assistance duplicates benefits available to the person for the same purpose from another source. The agency which provided the duplicative assistance shall collect such duplicative assistance from the recipient in accordance with chapter 37 of title 31, United States Code, relating to debt collection, when the head of such agency considers it to be in the best interest of the Federal Government.

"(d) ASSISTANCE NOT INCOME.—Federal major disaster and emergency assistance provided to individuals and families under this Act, and comparable disaster assistance provided by States, local governments, and disaster assistance organizations, shall not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested benefit programs.".

102 STAT. 4694

(j) REVIEWS AND REPORTS.—Title III is further amended by striking out section 316 and inserting in lieu thereof the following new section:

President of U.S.
42 USC 5156.

"SEC. 313. STANDARDS AND REVIEWS.

"The President shall establish comprehensive standards which shall be used to assess the efficiency and effectiveness of Federal major disaster and emergency assistance programs administered under this Act. The President shall conduct annual reviews of the activities of Federal agencies and State and local governments in major disaster and emergency preparedness and in providing major disaster and emergency assistance in order to assure maximum coordination and effectiveness of such programs and consistency in policies for reimbursement of States under this Act.".

(k) PENALTIES.—Title III is further amended by striking out section 317 and inserting in lieu thereof the following new section:

42 USC 5157.

"SEC. 314. PENALTIES.

"(a) MISUSE OF FUNDS.—Any person who knowingly misapplies the proceeds of a loan or other cash benefit obtained under this Act shall be fined an amount equal to one and one-half times the misapplied amount of the proceeds or cash benefit.

"(b) CIVIL ENFORCEMENT.—Whenever it appears that any person has violated or is about to violate any provision of this Act, including any civil penalty imposed under this Act, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in an appropriate United States district court.

President of U.S.

"(c) REFERRAL TO ATTORNEY GENERAL.—The President shall expeditiously refer to the Attorney General for appropriate action any evidence developed in the performance of functions under this Act that may warrant consideration for criminal prosecution.

"(d) CIVIL PENALTY.—Any individual who knowingly violates any order or regulation issued under this Act shall be subject to a civil penalty of not more than $5,000 for each violation.".

(l) REDESIGNATION OF SECTION 318.—Section 318, and any reference thereto, is redesignated as section 315.

42 USC 5158.

(m) PROTECTION OF ENVIRONMENT; RECOVERY OF ASSISTANCE; AUDITS AND INVESTIGATIONS.—

(1) ADDITIONS TO TITLE III.—Title III is further amended by adding at the end thereof the following new sections:

42 USC 5159.

"SEC. 316. PROTECTION OF ENVIRONMENT.

"An action which is taken or assistance which is provided pursuant to section 402, 403, 406, 407, or 502, including such assistance provided pursuant to the procedures provided for in section 422,

which has the effect of restoring a facility substantially to its condition prior to the disaster or emergency, shall not be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852). Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 to other Federal actions taken under this Act or under any other provisions of law.

42 USC 5160.

"SEC. 317. RECOVERY OF ASSISTANCE.

"(a) PARTY LIABLE.—Any person who intentionally causes a condition for which Federal assistance is provided under this Act or under any other Federal law as a result of a declaration of a major disaster or emergency under this Act shall be liable to the United States for the reasonable costs incurred by the United States in responding to such disaster or emergency to the extent that such costs are attributable to the intentional act or omission of such person which caused such condition. Such action for reasonable costs shall be brought in an appropriate United States district court.

"(b) RENDERING OF CARE.—A person shall not be liable under this section for costs incurred by the United States as a result of actions taken or omitted by such person in the course of rendering care or assistance in response to a major disaster or emergency.

42 USC 5161.

"SEC. 318. AUDITS AND INVESTIGATIONS.

President of U.S.

"(a) IN GENERAL.—Subject to the provisions of chapter 75 of title 31, United States Code, relating to requirements for single audits, the President shall conduct audits and investigations as necessary to assure compliance with this Act, and in connection therewith may question such persons as may be necessary to carry out such audits and investigations.

"(b) ACCESS TO RECORDS.—For purposes of audits and investigations under this section, the President and Comptroller General may inspect any books, documents, papers, and records of any person relating to any activity undertaken or funded under this Act.

"(c) STATE AND LOCAL AUDITS.—The President may require audits by State and local governments in connection with assistance under this Act when necessary to assure compliance with this Act or related regulations.

42 USC 5162.

"SEC. 319. ADVANCE OF NON-FEDERAL SHARE.

"(a) IN GENERAL.—The President may lend or advance to an eligible applicant or a State the portion of assistance for which the State is responsible under the cost-sharing provisions of this Act in any case in which—

"(1) the State is unable to assume its financial responsibility under such cost-sharing provisions—

"(A) with respect to concurrent, multiple major disasters in a jurisdiction, or

"(B) after incurring extraordinary costs as a result of a particular disaster; and

"(2) the damages caused by such disasters or disaster are so overwhelming and severe that it is not possible for the applicant or the State to assume immediately their financial responsibility under this Act.

"(b) TERMS OF LOANS AND ADVANCES.—

"(1) IN GENERAL.—Any loan or advance under this section shall be repaid to the United States.

"(2) INTEREST.—Loans and advances under this section shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period of the loan or advance.

President of U.S. Loans.

"(c) REGULATIONS.—The President shall issue regulations describing the terms and conditions under which any loan or advance authorized by this section may be made.

102 STAT. 4696

42 USC 5163.

"SEC. 320. LIMITATION ON USE OF SLIDING SCALES.

"No geographic area shall be precluded from receiving assistance under this Act solely by virtue of an arithmetic formula or sliding scale based on income or population.

42 USC 5164.

"SEC. 321. RULES AND REGULATIONS.

"The President may prescribe such rules and regulations as may be necessary and proper to carry out the provisions of this Act, and may exercise, either directly or through such Federal agency as the President may designate, any power or authority conferred to the President by this Act.".

(2) CONFORMING AMENDMENT TO TITLE IV.—Title IV is amended by striking out section 405, relating to protection of the environment.

42 USC 5175.

SEC. 106. MAJOR DISASTER ASSISTANCE PROGRAMS.

(a) PROCEDURE FOR DECLARATION; GENERAL FEDERAL ASSISTANCE; ESSENTIAL ASSISTANCE; AND HAZARD MITIGATION.—Title IV is amended—

(1) by striking out the heading for such title and inserting in lieu thereof:

"TITLE IV—MAJOR DISASTER ASSISTANCE PROGRAMS";

(2) by redesignating section 401 (relating to Federal facilities), and any reference thereto, as section 405; and

42 USC 5171.

(3) by inserting before such section 405 the following new sections:

President of U.S.
42 USC 5170.

"SEC. 401. PROCEDURE FOR DECLARATION.

"All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As part of such request, and as a prerequisite to major disaster assistance under this Act, the Governor shall take appropriate response action under State law and direct execution of the State's emergency plan. The Governor shall furnish information on the nature and amount of State and local resources which have been or will be committed to alleviating the results of the disaster, and shall certify that, for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will comply with all applicable cost-sharing requirements of this Act. Based on the request of a Governor under this section, the President may declare under this Act that a major disaster or emergency exists.

42 USC 5170a.

"SEC. 402. GENERAL FEDERAL ASSISTANCE.

102 STAT. 4697

"In any major disaster, the President may—

"(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts;

"(2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;

"(3) provide technical and advisory assistance to affected State and local governments for—

"(A) the performance of essential community services;
"(B) issuance of warnings of risks and hazards;
"(C) public health and safety information, including dissemination of such information; Public information.
"(D) provision of health and safety measures; and
"(E) management, control, and reduction of immediate threats to public health and safety; and
"(4) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance.

"SEC. 403. ESSENTIAL ASSISTANCE. 42 USC 5170b.

"(a) IN GENERAL.—Federal agencies may on the direction of the President, provide assistance essential to meeting immediate threats to life and property resulting from a major disaster, as follows: Real property.
"(1) FEDERAL RESOURCES, GENERALLY.—Utilizing, lending, or donating to State and local governments Federal equipment, supplies, facilities, personnel, and other resources, other than the extension of credit, for use or distribution by such governments in accordance with the purposes of this Act. Gifts and property.
"(2) MEDICINE, FOOD, AND OTHER CONSUMABLES.—Distributing or rendering through State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations medicine, food, and other consumable supplies, and other services and assistance to disaster victims.
"(3) WORK AND SERVICES TO SAVE LIVES AND PROTECT PROPERTY.—Performing on public or private lands or waters any work or services essential to saving lives and protecting and preserving property or public health and safety, including— Public lands. Waters.
"(A) debris removal;
"(B) search and rescue, emergency medical care, emergency mass care, emergency shelter, and provision of food, water, medicine, and other essential needs, including movement of supplies or persons;
"(C) clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services;
"(D) provision of temporary facilities for schools and other essential community services;
"(E) demolition of unsafe structures which endanger the public;
"(F) warning of further risks and hazards;
"(G) dissemination of public information and assistance regarding health and safety measures; Public information.
"(H) provision of technical advice to State and local governments on disaster management and control; and 102 STAT. 4698
"(I) reduction of immediate threats to life, property, and public health and safety.
"(4) CONTRIBUTIONS.—Making contributions to State or local governments or owners or operators of private nonprofit facilities for the purpose of carrying out the provisions of this subsection.

"(b) FEDERAL SHARE.—The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of such assistance.

"(c) UTILIZATION OF DOD RESOURCES.—
"(1) GENERAL RULE.—During the immediate aftermath of an incident which may ultimately qualify for assistance under this title or title V of this Act, the Governor of the State in which such incident occurred may request the President to direct the Secretary of Defense to utilize the resources of the Department of Defense for the purpose of performing on public and private lands any emergency work which is made necessary by such incident and which is essential for the preservation of life and property. If the President determines that such work is essential for the preservation of life and property, the President shall Public lands. Real property. President of U.S.

grant such request to the extent the President determines practicable. Such emergency work may only be carried out for a period not to exceed 10 days.

"(2) RULES APPLICABLE TO DEBRIS REMOVAL.—Any removal of debris and wreckage carried out under this subsection shall be subject to section 407(b), relating to unconditional authorization and indemnification for debris removal.

"(3) EXPENDITURES OUT OF DISASTER RELIEF FUNDS.—The cost of any assistance provided pursuant to this subsection shall be reimbursed out of funds made available to carry out this Act.

"(4) FEDERAL SHARE.—The Federal share of assistance under this subsection shall be not less than 75 percent.

President of U.S. "(5) GUIDELINES.—Not later than 180 days after the date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988, the President shall issue guidelines for carrying out this subsection. Such guidelines shall consider any likely effect assistance under this subsection will have on the availability of other forms of assistance under this Act.

"(6) DEFINITIONS.—For purposes of this section—

"(A) DEPARTMENT OF DEFENSE.—The term 'Department of Defense' has the meaning the term 'department' has under section 101 of title 10, United States Code.

"(B) EMERGENCY WORK.—The term 'emergency work' includes clearance and removal of debris and wreckage and temporary restoration of essential public facilities and services.

42 USC 5170c. "SEC. 404. HAZARD MITIGATION.

"The President may contribute up to 50 percent of the cost of hazard mitigation measures which the President has determined are cost-effective and which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major

President of U.S. disaster. Such measures shall be identified following the evaluation of natural hazards under section 409 and shall be subject to approval by the President. The total of contributions under this section for a

102 STAT. 4699 major disaster shall not exceed 10 percent of the estimated aggregate amounts of grants to be made under section 406 with respect to such major disaster.".

(b) REPAIR AND RESTORATION OF DAMAGED FACILITIES.—Title IV is further amended by striking out section 402, relating to repair and restoration of damaged facilities, and inserting in lieu thereof the following new section:

42 USC 5172. "SEC. 406. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES.

"(a) CONTRIBUTIONS.—The President may make contributions—

"(1) to a State or local government for the repair, restoration, reconstruction, or replacement of a public facility which is damaged or destroyed by a major disaster and for associated expenses incurred by such government; and

"(2) to a person who owns or operates a private nonprofit facility damaged or destroyed by a major disaster for the repair, restoration, reconstruction, or replacement of such facility and for associated expenses incurred by such person.

"(b) MINIMUM FEDERAL SHARE.—The Federal share of assistance under this section shall be not less than—

"(1) 75 percent of the net eligible cost of repair, restoration, reconstruction, or replacement carried out under this section;

"(2) 100 percent of associated expenses described in subsections (f)(1) and (f)(2); and

"(3) 75 percent of associated expenses described in subsections (f)(3), (f)(4), and (f)(5).

"(c) LARGE IN LIEU CONTRIBUTIONS.—

"(1) FOR PUBLIC FACILITIES.—In any case where a State or local government determines that the public welfare would not be best served by repairing, restoring, reconstructing, or replacing

any public facility owned or controlled by such State or local government, it may elect to receive, in lieu of a contribution under subsection (a)(1), a contribution of not to exceed 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing such facility and of associated expenses. Funds contributed under this subsection may be used to repair, restore, or expand other selected public facilities, to construct new facilities, or to fund hazard mitigation measures which the State or local government determines to be necessary to meet a need for governmental services and functions in the area affected by the major disaster.

"(2) FOR PRIVATE NONPROFIT FACILITIES.—In any case where a person who owns or operates a private nonprofit facility determines that the public welfare would not be best served by repairing, restoring, reconstructing, or replacing such facility, such person may elect to receive, in lieu of a contribution under subsection (a)(2), a contribution of not to exceed 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing such facility and of associated expenses. Funds contributed under this subsection may be used to repair, restore, or expand other selected private nonprofit facilities owned or operated by such person, to construct new private nonprofit facilities to be owned or operated by such person, or to fund hazard mitigation measures which such person determines to be necessary to meet a need for its services and functions in the area affected by the major disaster. 102 STAT. 4700

"(3) RESTRICTION ON USE FOR STATE OR LOCAL CONTRIBUTION.—Funds provided under this subsection shall not be used for any State or local government cost-sharing contribution required under this Act.

"(d) FLOOD INSURANCE.—

"(1) REDUCTION OF FEDERAL ASSISTANCE.—If a public facility or private nonprofit facility located in a special flood hazard area identified for more than 1 year by the Director pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is damaged or destroyed, after the 180th day following the date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988, by flooding in a major disaster and such facility is not covered on the date of such flooding by flood insurance, the Federal assistance which would otherwise be available under this section with respect to repair, restoration, reconstruction, and replacement of such facility and associated expenses shall be reduced in accordance with paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount of a reduction in Federal assistance under this section with respect to a facility shall be the lesser of—

"(A) the value of such facility on the date of the flood damage or destruction, or

"(B) the maximum amount of insurance proceeds which would have been payable with respect to such facility if such facility had been covered by flood insurance under the National Flood Insurance Act of 1968 on such date.

"(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to a private nonprofit facility which is not covered by flood insurance solely because of the local government's failure to participate in the flood insurance program established by the National Flood Insurance Act.

"(4) DISSEMINATION OF INFORMATION.—The President shall disseminate information regarding the reduction in Federal assistance provided for by this subsection to State and local governments and the owners and operators of private nonprofit facilities who may be affected by such a reduction. President of U.S.

effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of such request, and as a prerequisite to emergency assistance under this Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. The Governor shall furnish information describing the State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor's request, the President may declare that an emergency exists.

"(b) CERTAIN EMERGENCIES INVOLVING FEDERAL PRIMARY RESPONSIBILITY.—The President may exercise any authority vested in him by section 502 or section 503 with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority. In determining whether or not such an emergency exists, the President shall consult the Governor of any affected State, if practicable. The President's determination may be made without regard to subsection (a). President of U.S.

"SEC. 502. FEDERAL EMERGENCY ASSISTANCE. 42 USC 5192.

"(a) SPECIFIED.—In any emergency, the President may—

"(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical and advisory services) in support of State and local emergency assistance efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe; 102 STAT. 4707

"(2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;

"(3) provide technical and advisory assistance to affected State and local governments for—

"(A) the performance of essential community services;

"(B) issuance of warnings of risks or hazards;

"(C) public health and safety information, including dissemination of such information;

"(D) provision of health and safety measures; and

"(E) management, control, and reduction of immediate threats to public health and safety;

"(4) provide emergency assistance through Federal agencies;

"(5) remove debris in accordance with the terms and conditions of section 407;

"(6) provide temporary housing assistance in accordance with section 408; and Housing.

"(7) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance.

"(b) GENERAL.—Whenever the Federal assistance provided under subsection (a) with respect to an emergency is inadequate, the President may also provide assistance with respect to efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe.

"SEC. 503. AMOUNT OF ASSISTANCE. 42 USC 5193.

"(a) FEDERAL SHARE.—The Federal share for assistance provided under this title shall be equal to not less than 75 percent of the eligible costs.

"(b) LIMIT ON AMOUNT OF ASSISTANCE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), total assistance provided under this title for a single emergency shall not exceed $5,000,000.

President of U.S.

"(2) ADDITIONAL ASSISTANCE.—The limitation described in paragraph (1) may be exceeded when the President determines that—

"(A) continued emergency assistance is immediately required;

"(B) there is a continuing and immediate risk to lives, property, public health or safety; and

"(C) necessary assistance will not otherwise be provided on a timely basis.

President of U.S.

"(3) REPORT.—Whenever the limitation described in paragraph (1) is exceeded, the President shall report to the Congress on the nature and extent of emergency assistance requirements and shall propose additional legislation if necessary.".

42 USC 3231 note.

(b) SAVINGS CLAUSE.—The amendment made by subsection (a) shall not be construed as having any effect on title VIII of the Public Works and Economic Development Act of 1965 which was added to such Act by section 501 of the Disaster Relief Act of 1974 on May 22, 1974.

SEC. 108. AMENDMENTS TO TITLE VI.

42 USC 5201.

(a) RULES.—Section 601(a) is amended—

102 STAT. 4708

(1) by inserting "(1)" after "SEC. 601. (a)"; and

(2) by adding at the end the following new paragraph:

"(2) DEADLINE FOR PAYMENT OF ASSISTANCE.—Rules and regulations authorized by paragraph (1) shall provide that payment of any assistance under this Act to a State shall be completed within 60 days after the date of approval of such assistance.".

42 USC 5121 note.

(b) EFFECTIVE DATE.—Section 605 is repealed.

42 USC 5202.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 606 is repealed.

SEC. 109. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) AGRICULTURAL ACT OF 1949.—(1) Section 401(c) of the Agricultural Act of 1949 (7 U.S.C. 1421(c)) is amended by striking out "Public Law 875, Eighty-first Congress" and inserting in lieu thereof "the Disaster Relief and Emergency Assistance Act".

(2) Section 407 of such Act (7 U.S.C. 1427) is amended by striking out "Public Law 875, Eighty-first Congress, as amended (42 U.S.C. 1855)" and inserting in lieu thereof "the Disaster Relief and Emergency Assistance Act".

(b) AGRICULTURAL ACT OF 1970.—Section 813(d) of the Agricultural Act of 1970 (7 U.S.C. 1427a(d)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(c) CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—(1) Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended by striking out "Act of 1974" each place it appears and inserting in lieu thereof "and Emergency Assistance Act".

(2) Section 324(d) of such Act (7 U.S.C. 1964(d)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(d) FOOD STAMP ACT OF 1977.—Section 5(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(h)(1)) is amended by striking out "section 302(a) of the Disaster Relief Act of 1974" and inserting in lieu thereof "sections 402 and 502 of the Disaster Relief and Emergency Assistance Act".

(e) NATIONAL HOUSING ACT.—(1) Section 8(b)(2) of the National Housing Act (12 U.S.C. 1706c(b)(2)) is amended by striking out "102(2) and 301 of the Disaster Relief Act of 1974" and inserting in lieu thereof "102(2) and 401 of the Disaster Relief and Emergency Assistance Act".

(2) Section 203(h) of such Act (12 U.S.C. 1709(h)) is amended—

(A) by striking out "riot or civil disorder,"; and

(B) by striking out "102(2) and 301 of the Disaster Relief Act of 1974" and inserting in lieu thereof "102(2) and 401 of the Disaster Relief and Emergency Assistance Act".

"(e) NET ELIGIBLE COST.—

"(1) GENERAL RULE.—For purposes of this section, the cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility on the basis of the design of such facility as it existed immediately prior to the major disaster and in conformity with current applicable codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) shall, at a minimum, be treated as the net eligible cost of such repair, restoration, reconstruction, or replacement.

"(2) SPECIAL RULE.—In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing such facility shall include, for purposes of this section, only those costs which, under the contract for such construction, are the owner's responsibility and not the contractor's responsibility.

102 STAT. 4701

"(f) ASSOCIATED EXPENSES.—For purposes of this section, associated expenses include the following:

"(1) NECESSARY COSTS.—Necessary costs of requesting, obtaining, and administering Federal assistance based on a percentage of assistance provided as follows:

"(A) For an applicant whose net eligible costs equal less than $100,000, 3 percent of such net eligible costs.

"(B) For an applicant whose net eligible costs equal $100,000 or more but less than $1,000,000, $3,000 plus 2 percent of such net eligible costs in excess of $100,000.

"(C) For an applicant whose net eligible costs equal $1,000,000 or more but less than $5,000,000, $21,000 plus 1 percent of such net eligible costs in excess of $1,000,000.

"(D) For an applicant whose net eligible costs equal $5,000,000 or more, $61,000 plus ½ percent of such net eligible costs in excess of $5,000,000.

"(2) EXTRAORDINARY COSTS.—Extraordinary costs incurred by a State for preparation of damage survey reports, final inspection reports, project applications, final audits, and related field inspections by State employees, including overtime pay and per diem and travel expenses of such employees, but not including pay for regular time of such employees, based on the total amount of assistance provided under sections 403, 404, 406, 407, 502, and 503 in such State in connection with the major disaster as follows:

"(A) If such total amount is less than $100,000, 3 percent of such total amount.

"(B) If such total amount is $100,000 or more but less than $1,000,000, $3,000 plus 2 percent of such total amount in excess of $100,000.

"(C) If such total amount is $1,000,000 or more but less than $5,000,000, $21,000 plus 1 percent of such total amount in excess of $1,000,000.

"(D) If such total amount is $5,000,000 or more, $61,000 plus ½ percent of such total amount in excess of $5,000,000.

"(3) COSTS OF NATIONAL GUARD.—The costs of mobilizing and employing the National Guard for performance of eligible work.

"(4) COSTS OF PRISON LABOR.—The costs of using prison labor to perform eligible work, including wages actually paid, transportation to a worksite, and extraordinary costs of guards, food, and lodging.

Wages.

"(5) OTHER LABOR COSTS.—Base and overtime wages for an applicant's employees and extra hires performing eligible work plus fringe benefits on such wages to the extent that such benefits were being paid before the disaster.".

(c) DEBRIS REMOVAL.—

(1) REDESIGNATION.—Section 403 (relating to debris removal) and any reference thereto, is redesignated as section 407.

42 USC 5173.

(2) INCLUSION OF NONPROFIT FACILITIES.—Subsection (a)(2) of such section 407 is amended by inserting after "local government" the following: "or owner or operator of a private nonprofit facility".

(3) RULES RELATING TO LARGE LOTS; FEDERAL SHARE.—Such section 407 is further amended by adding at the end thereof the following new subsections:

"(c) RULES RELATING TO LARGE LOTS.—The President shall issue rules which provide for recognition of differences existing among urban, suburban, and rural lands in implementation of this section so as to facilitate adequate removal of debris and wreckage from large lots. President of U.S. 102 STAT. 4702

"(d) FEDERAL SHARE.—The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of debris and wreckage removal carried out under this section.".

(d) TEMPORARY HOUSING ASSISTANCE.—Title IV is further amended by striking out section 404, relating to temporary housing assistance, and inserting in lieu thereof the following new section:

"SEC. 408. TEMPORARY HOUSING ASSISTANCE. 42 USC 5174.

"(a) PROVISION OF TEMPORARY HOUSING.—

"(1) IN GENERAL.—The President may—

"(A) provide, by purchase or lease, temporary housing (including unoccupied habitable dwellings), suitable rental housing, mobile homes, or other readily fabricated dwellings to persons who, as a result of a major disaster, require temporary housing; and Contracts.

"(B) reimburse State and local governments in accordance with paragraph (4) for the cost of sites provided under paragraph (2).

"(2) MOBILE HOME SITE.—

"(A) IN GENERAL.—Any mobile home or other readily fabricated dwelling provided under this section shall whenever possible be located on a site which—

"(i) is provided by the State or local government; and

"(ii) has utilities provided by the State or local government, by the owner of the site, or by the occupant who was displaced by the major disaster. Utilities.

"(B) OTHER SITES.—Mobile homes and other readily fabricated dwellings may be located on sites provided by the President if the President determines that such sites would be more economical or accessible than sites described in subparagraph (A).

"(3) PERIOD.—Federal financial and operational assistance under this section shall continue for not longer than 18 months after the date of the major disaster declaration by the President, unless the President determines that due to extraordinary circumstances it would be in the public interest to extend such 18-month period. President of U.S.

"(4) FEDERAL SHARE.—The Federal share of assistance under this section shall be 100 percent; except that the Federal share of assistance under this section for construction and site development costs (including installation of utilities) at a mobile home group site shall be 75 percent of the eligible cost of such assistance. The State or local government receiving assistance under this section shall pay any cost which is not paid for from the Federal share.

"(b) TEMPORARY MORTGAGE AND RENTAL PAYMENTS.—The President is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of a foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to such disaster. Such assistance shall be provided President of U.S.

102 STAT. 4703

for the duration of the period of financial hardship but not to exceed 18 months.

President of U.S.

"(c) IN LIEU EXPENDITURES.—In lieu of providing other types of temporary housing after a major disaster, the President is authorized to make expenditures for the purpose of repairing or restoring to a habitable condition owner-occupied private residential structures made uninhabitable by a major disaster which are capable of being restored quickly to a habitable condition.

President of U.S.

"(d) TRANSFER OF TEMPORARY HOUSING.—

"(1) DIRECT SALE TO OCCUPANTS.—Notwithstanding any other provision of law, any temporary housing acquired by purchase may be sold directly to individuals and families who are occupants of temporary housing at prices that are fair and equitable, as determined by the President.

"(2) TRANSFERS TO STATES, LOCAL GOVERNMENTS, AND VOLUNTARY ORGANIZATIONS.—The President may sell or otherwise make available temporary housing units directly to States, other governmental entities, and voluntary organizations. The President shall impose as a condition of transfer under this paragraph a covenant to comply with the provisions of section 308 requiring nondiscrimination in occupancy of such temporary housing units. Such disposition shall be limited to units purchased under the provisions of subsection (a) and to the purposes of providing temporary housing for disaster victims in major disasters or emergencies.

Discrimination, prohibition.

"(e) NOTIFICATION.—

"(1) IN GENERAL.—Each person who applies for assistance under this section shall be notified regarding the type and amount of any assistance for which such person qualifies. Whenever practicable, such notice shall be provided within 7 days after the date of submission of such application.

"(2) INFORMATION.—Notification under this subsection shall provide information regarding—

"(A) all forms of such assistance available;

"(B) any specific criteria which must be met to qualify for each type of assistance that is available;

"(C) any limitations which apply to each type of assistance; and

"(D) the address and telephone number of offices responsible for responding to—

"(i) appeals of determinations of eligibility for assistance; and

"(ii) requests for changes in the type or amount of assistance provided.

"(f) LOCATION.—In providing assistance under this section, consideration shall be given to the location of and travel time to—

"(1) the applicant's home and place of business;

"(2) schools which the applicant or members of the applicant's family who reside with the applicant attend; and

"(3) crops or livestock which the applicant tends in the course of any involvement in farming which provides 25 percent or more of the applicant's annual income.".

(e) REDESIGNATION OF SECTIONS 406 AND 407.—Sections 406 (relating to minimum standards for public and private structures) and 407 (relating to unemployment assistance), and any references thereto, are redesignated as sections 409 and 410, respectively.

42 USC 5176, 5177.

42 USC 5177.

(f) UNEMPLOYMENT ASSISTANCE LIMITATIONS.—Section 410 (as so redesignated) is amended as follows:

102 STAT. 4704

(1) ENTITLEMENT TO OTHER COMPENSATION.—The first sentence of subsection (a) is amended by inserting "for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of the Internal Revenue Code of 1986) or waiting period credit" after "is unemployed".

(2) TERM OF ASSISTANCE.—The second sentence of subsection (a) is amended by striking out "one year" and inserting in lieu thereof "26 weeks".

(3) REPEAL OF REDUCTION IN COMPENSATION.—The third sentence of subsection (a) is amended by striking out "occurred," and all that follows through the end of the sentence and inserting in lieu thereof "occurred.".

(4) REEMPLOYMENT ASSISTANCE.—Subsection (b) is amended to read as follows:

"(b) REEMPLOYMENT ASSISTANCE.—

"(1) STATE ASSISTANCE.—A State shall provide, without reimbursement from any funds provided under this Act, reemployment assistance services under any other law administered by the State to individuals receiving benefits under this section.

"(2) FEDERAL ASSISTANCE.—The President may provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster and who reside in a State which does not provide such services.".

(g) INDIVIDUAL AND FAMILY GRANT PROGRAMS.—Title IV is amended by striking out section 408 (relating to individual and family grant programs) and inserting in lieu thereof the following new section: 42 USC 5178 and note.

"SEC. 411. INDIVIDUAL AND FAMILY GRANT PROGRAMS. 42 USC 5178.

"(a) IN GENERAL.—The President is authorized to make a grant to a State for the purpose of making grants to individuals or families adversely affected by a major disaster for meeting disaster-related necessary expenses or serious needs of such individuals or families in those cases where such individuals or families are unable to meet such expenses or needs through assistance under other provisions of this Act or through other means. President of U.S.

"(b) COST SHARING.—

"(1) FEDERAL SHARE.—The Federal share of a grant to an individual or a family under this section shall be equal to 75 percent of the actual cost incurred.

"(2) STATE CONTRIBUTION.—The Federal share of a grant under this section shall be paid only on condition that the remaining 25 percent of the cost is paid to an individual or family from funds made available by a State.

"(c) REGULATIONS.—The President shall promulgate regulations to carry out this section and such regulations shall include national criteria, standards, and procedures for the determination of eligibility for grants and the administration of grants under this section. President of U.S.

"(d) ADMINISTRATIVE EXPENSES.—A State may expend not to exceed 5 percent of any grant made by the President to it under subsection (a) for expenses of administering grants to individuals and families under this section.

102 STAT. 4705

"(e) ADMINISTRATION THROUGH GOVERNOR.—The Governor of a State shall administer the grant program authorized by this section in the State.

"(f) LIMIT ON GRANTS TO INDIVIDUAL.—No individual or family shall receive grants under this section aggregating more than $10,000 with respect to any single major disaster. Such $10,000 limit shall annually be adjusted to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.".

(h) REDESIGNATION OF SECTIONS 409 THROUGH 412.—Sections 409 (relating to food coupons and distribution), 410 (relating to food commodities), 411 (relating to relocation assistance), and 412 (relating to legal services), and any references thereto, are redesignated as sections 412, 413, 414, and 415, respectively. 42 USC 5179–5182.

(i) CRISIS COUNSELING.—Section 413 (relating to crisis counseling assistance and training), and any reference thereto, is redesignated as section 416. Such section is amended by striking out "(through the National Institute of Mental Health)". 42 USC 5183.

(j) REDESIGNATION OF SECTIONS 414 THROUGH 418.—Sections 414 (relating to community disaster loans), 415 (relating to emergency communications), 416 (relating to emergency public transportation), 417 (relating to fire suppression grants), and section 418 (relating to timber sale contracts), and any references thereto, are redesignated as sections 417, 418, 419, 420, and 421, respectively.

42 USC 5184-5188.

(k) SIMPLIFIED PROCEDURE.—Title IV is further amended by striking out section 419 (relating to in-lieu contribution) and inserting in lieu thereof the following new section:

42 USC 5189.

"SEC. 422. SIMPLIFIED PROCEDURE.

"If the Federal estimate of the cost of—

"(1) repairing, restoring, reconstructing, or replacing under section 406 any damaged or destroyed public facility or private nonprofit facility,

"(2) emergency assistance under section 403 or 502, or

"(3) debris removed under section 407,

is less than $35,000, the President (on application of the State or local government or the owner or operator of the private nonprofit facility) may make the contribution to such State or local government or owner or operator under section 403, 406, 407, or 502, as the case may be, on the basis of such Federal estimate. Such $35,000 amount shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.".

(l) APPEALS; DATE OF ELIGIBILITY; EXPENSES INCURRED BEFORE DATE OF DISASTER; ADVANCE OF NON-FEDERAL SHARE; LIMITATION ON USE OF SLIDING SCALES.—Title IV is further amended by adding at the end thereof the following new sections:

42 USC 5189a.

"SEC. 423. APPEALS OF ASSISTANCE DECISIONS.

"(a) RIGHT OF APPEAL.—Any decision regarding eligibility for, from, or amount of assistance under this title may be appealed within 60 days after the date on which the applicant for such assistance is notified of the award or denial of award of such assistance.

"(b) PERIOD FOR DECISION.—A decision regarding an appeal under subsection (a) shall be rendered within 90 days after the date on which the Federal official designated to administer such appeals receives notice of such appeal.

102 STAT. 4706

President of U.S.

"(c) RULES.—The President shall issue rules which provide for the fair and impartial consideration of appeals under this section.

42 USC 5189b.

"SEC. 424. DATE OF ELIGIBILITY; EXPENSES INCURRED BEFORE DATE OF DISASTER.

President of U.S.

"Eligibility for Federal assistance under this title shall begin on the date of the occurrence of the event which results in a declaration by the President that a major disaster exists; except that reasonable expenses which are incurred in anticipation of and immediately preceding such event may be eligible for Federal assistance under this Act.".

SEC. 107. FEDERAL EMERGENCY ASSISTANCE PROGRAMS.

(a) FEDERAL EMERGENCY ASSISTANCE PROGRAMS.—Title V is amended to read as follows:

"TITLE V—EMERGENCY ASSISTANCE PROGRAMS

42 USC 5191.

"SEC. 501. PROCEDURE FOR DECLARATION.

"(a) REQUEST AND DECLARATION.—All requests for a declaration by the President that an emergency exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the situation is of such severity and magnitude that

(3) Section 221(f) of such Act (12 U.S.C. 1715l(f)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(f) SMALL BUSINESS ACT.—(1) Section 7(b)(2)(A) of the Small Business Act (15 U.S.C. 636(b)(2)(A)) is amended by striking out "the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes', approved September 30, 1950, as amended (42 U.S.C. 1855–1855g)" and inserting in lieu thereof "the Disaster Relief and Emergency Assistance Act".

(2) Section 7(b)(E) of such Act (15 U.S.C. 636(b)(E)) is amended by striking out "subsection (b) of section 315 of Public Law 93-288 (42 U.S.C. 5155)" and inserting in lieu thereof "section 312(a) of the Disaster Relief and Emergency Assistance Act". 102 STAT. 4709

(3) Section 7(f) of such Act (15 U.S.C. 636(f)) is amended by striking out "section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting in lieu thereof "section 102(2) of the Disaster Relief and Emergency Assistance Act".

(g) ENDANGERED SPECIES ACT OF 1973.—Section 7(p) of the Endangered Species Act of 1973 (16 U.S.C. 1536(p)) is amended—

(1) by striking out "Disaster Relief Act of 1974" each place it appears and inserting in lieu thereof "Disaster Relief and Emergency Assistance Act"; and

(2) by striking out "401 or 402" and inserting in lieu thereof "405 or 406".

(h) COASTAL BARRIER RESOURCES ACT.—Section 6(a)(6)(E) of the Coastal Barrier Resources Act (16 U.S.C. 3505(a)(6)(E)) is amended by striking out "305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146)" and inserting in lieu thereof "402, 403, and 502 of the Disaster Relief and Emergency Assistance Act".

(i) IMPACT AID ACT.—Section 7(a)(1)(A) of the Act of September 30, 1950, commonly known as the Impact Aid Act (Public Law 874, 81st Congress; 20 U.S.C. 241-1(a)(1)(A)), is amended by striking out "102(2) and 301 of the Disaster Relief Act of 1974" and inserting in lieu thereof "102(2) and 401 of the Disaster Relief and Emergency Assistance Act".

(j) PUBLIC LAW 815 OF THE 81ST CONGRESS.—Section 16(a)(1)(A) of the Act of September 23, 1950 (Public Law 815, 81st Congress; 20 U.S.C. 646(a)(1)(A)), is amended by striking out "102(2) and 301 of the Disaster Relief Act of 1974" and inserting in lieu thereof "102(2) and 401 of the Disaster Relief and Emergency Assistance Act".

(k) TITLE 23.—Section 125(b) of title 23, United States Code, is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(l) INTERNAL REVENUE CODE OF 1986.—Sections 165(i)(1), 165(k), 5064(b)(3), and 5708(a) of the Internal Revenue Code of 1986 (26 U.S.C. 165(i)(1), 165(k), 5064(b)(3), and 5708(a)) are each amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(m) ACT OF AUGUST 18, 1941.—Section 5(a) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (33 U.S.C. 701n), is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(n) TITLE 38.—Section 1820(f) of title 38, United States Code, is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(o) NATIONAL FLOOD INSURANCE ACT OF 1968.—Section 1306(c)(5) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(5)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(p) SOCIAL SECURITY ACT.—Subsections (a)(2)(A) and (b)(11) of section 1612 of the Social Security Act (42 U.S.C. 1382a(a)(2)(A) and (b)(11)) are each amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

102 STAT. 4710

(q) OLDER AMERICANS ACT OF 1965.—Section 310(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3030(a)(1)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(r) PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965.—(1) Section 801(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231(b)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(2) Section 802(b) of such Act (42 U.S.C. 3232(b)) is amended by striking out "402(f) of the Disaster Relief Act of 1974" and inserting in lieu thereof "406(c) of the Disaster Relief and Emergency Assistance Act".

(s) DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; SPACE, SCIENCE, VETERANS, AND CERTAIN OTHER INDEPENDENT AGENCIES APPROPRIATION ACT, 1973.—Section 406 of the Department of Housing and Urban Development; Space, Science, Veterans, and Certain Other Independent Agencies Appropriation Act, 1973 is amended by striking out "Act of 1970 (84 Stat. 1744)" and inserting in lieu thereof "and Emergency Assistance Act".

42 USC 3539.

(t) FLOOD DISASTER PROTECTION ACT OF 1973.—Section 3(a)(4) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4003(a)(4)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(u) EARTHQUAKE HAZARDS REDUCTION ACT OF 1977.—Subsections (g) and (i) of section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) are each amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(v) CERCLA.—Section 101(23) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(23)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(w) ACT OF JUNE 30, 1954.—Section 3 of the Act of June 30, 1954 (68 Stat. 330; 48 U.S.C. 1681 note) is amended by striking out "102(2) and 301 of the Disaster Relief Act of 1974" and inserting in lieu thereof "102(2) and 401 of the Disaster Relief and Emergency Assistance Act".

42 USC 5121 note.

SEC. 110. RECOMMENDATIONS CONCERNING IMPROVEMENT OF RELATIONSHIPS AMONG DISASTER MANAGEMENT OFFICIALS.

President of U.S.

Not later than 1 year after the date of the enactment of this Act, the President shall recommend to the Congress proposals to improve the operational and fiscal relationships that exist among Federal, State, and local major disaster and emergency management officials. Such proposals should include provisions which—

(1) decrease the amount of time for processing requests for major disaster and emergency declarations and providing Federal assistance for major disasters and emergencies;

(2) provide for more effective utilization of State and local resources in major disaster and emergency relief efforts; and

(3) improve the timeliness of reimbursement of State and local governments after the submission of necessary documentation.

SEC. 111. STUDY OF DISASTER DECLARATION PROCESS.

(a) FINDINGS.—The Congress finds and declares that—

(1) the explosion at the Pacific Engineering and Production Company in Henderson, Nevada, on May 4, 1988, resulted in the deaths of two people, more than 350 injuries, and damages to more than 3,000 buildings;

102 STAT. 4711

(2) the Governor of Nevada on May 9, 1988, requested the President to declare a major disaster for Nevada as a result of the catastrophic accident that occurred on May 4;

(3) the Federal Emergency Management Agency's recommendations in response to the Governor's disaster declaration request were delivered to the White House on May 12;

(4) the Governor of Nevada was not kept informed of the status of the State's request for Federal disaster assistance and

information concerning the Governor's request was selectively disseminated; and

(5) the untimely and selective release of information concerning the disaster had a negative impact on the victims of the Henderson explosion, and the citizens of Nevada as a whole.

(b) STUDY AND REPORT.—The Comptroller General of the United States shall—

(1) conduct a study of the process by which disaster declarations are made; and

(2) not later than 180 days after the date of enactment of this Act, transmit a report to the Congress describing the findings of the study along with recommendations on ways to improve and ensure the non-political functioning of the process for declaring disasters.

SEC. 112. DECLARED DISASTERS AND EMERGENCIES NOT AFFECTED. 42 USC 5121 note.

This title shall not affect the administration of any assistance for a major disaster or emergency declared by the President before the date of the enactment of this Act. President of U.S.

SEC. 113. DEADLINE FOR ISSUANCE OF REGULATIONS. 42 USC 5201 note.

Regulations necessary to carry out this title and the amendments made by this title shall be issued no later than the 180th day following the date of the enactment of this Act.

TITLE II—GREAT LAKES DAMAGE ASSISTANCE AND PREVENTION

Great Lakes Planning Assistance Act of 1988.

SEC. 201. SHORT TITLE. 33 USC 426p note.

This title may be cited as the "Great Lakes Planning Assistance Act of 1988".

SEC. 202. DAMAGE ASSISTANCE PROGRAM. 33 USC 426P note.

(a) IN GENERAL.—The Director is authorized to provide assistance to Great Lakes States in the establishment of State programs to reduce and prevent damage attributable to high water levels in the Great Lakes.

(b) GRANTS.—Upon application by a Great Lakes State within 1 year after the date of enactment of this Act, the Director may make a one-time grant to the State of not more than $250,000 for use by the State for—

(1) preparation of plans for mitigation, warning, emergency operations, and emergency assistance;

(2) coordination of available State and Federal assistance;

(3) development and implementation of nonstructural measures to reduce or prevent damage attributable to high water levels in the Great Lakes, including establishment of setback requirements and other conditions on construction and reconstruction of public and private facilities, mapping of flooding zones, and technical assistance; and

102 STAT. 4712

(4) assisting local governments in developing and implementing plans for nonstructural reduction and prevention of damages attributable to high water levels in the Great Lakes.

(c) TECHNICAL ASSISTANCE.—The Director may provide technical assistance to Great Lakes States for carrying out any activity carried out with assistance under this section.

(d) STATE MATCHING.—A State which receives a grant under this section shall match the grant with an amount of funds from non-Federal sources equal to 25 percent of the amount of the grant.

(e) AUTHORIZATION.—There are authorized to be appropriated for making grants under this section not more than $2,000,000 for fiscal years beginning after September 30, 1988.

SEC. 203. CORPS OF ENGINEERS. Flood control. 33 USC 426p.

(a) TECHNICAL AND OTHER ASSISTANCE.—The Secretary of the Army may—

(1) provide emergency assistance to prevent or reduce damage attributable to high water levels in the Great Lakes, including provision of sandbags, sheeting, and stones and other armoring devices (taking account of flooding and erosion of other property which may be caused by such activity) but not including construction of permanent structures;

(2) provide technical assistance to individuals and local governments with respect to measures to prevent or reduce such damage; and

(3) compile and disseminate information on—

(A) water levels of the Great Lakes,

(B) techniques for prevention or reduction of such damage, and

(C) emergency relief available to persons who suffer economic injury attributable to high water levels in the Great Lakes.

(b) ISSUANCE OF PERMITS.—

(1) CONSIDERATION OF FLOODING AND EROSION.—In issuing a permit under—

(A) section 10 of the Act of March 3, 1899 (33 U.S.C. 403); or

(B) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

for any activity carried out with assistance under this title, the Secretary of the Army shall take account of flooding and erosion of other property which may be caused by such activity.

(2) BANK STABILIZATION.—

(A) GENERAL RULE.—In issuing permits under sections 10 of the Act of March 3, 1899 (33 U.S.C. 403) and 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) for a project involving dredging of any portion of the Great Lakes, the Secretary of the Army shall, if feasible, encourage for bank stabilization purposes the disposal of nonhazardous compatible sand from such project on shorelines affected by erosion.

(B) CONSULTATION.—In carrying out subparagraph (A), the Secretary of the Army shall consult affected State and local governments.

102 STAT. 4713

Great Lakes Coastal Barrier Act of 1988.
16 USC 3501 note.

SEC. 294. GREAT LAKES COASTAL BARRIER ACT OF 1988.

(a) SHORT TITLE.—This section may be cited as the "Great Lakes Coastal Barrier Act of 1988".

(b) STUDY OF COASTAL BARRIER RESOURCES SYSTEM TO INCLUDE BARRIERS WITHIN GREAT LAKES SHORE AREAS.—Section 4 of the Coastal Barrier Resources Act (16 U.S.C. 3503) is amended to read as follows:

"SEC. 4. COASTAL BARRIER RESOURCES SYSTEM.

"(a) IN GENERAL.—The Coastal Barrier Resources System consists of—

"(1) those undeveloped coastal barriers that are located on the Atlantic and Gulf Coasts of the United States and included within the System on April 19, 1983; and

"(2) those undeveloped coastal barriers along the shore areas of the Great Lakes that are designated by Congress by law after considering the recommendations of the Secretary made under subsection (b) of this section.

"(b) INCLUSION OF GREAT LAKES BARRIERS.—

"(1) IN GENERAL.—

"(A) RECOMMENDATIONS AND MAPS.—Except as provided in subparagraph (B), not later than 3 months after the date of the enactment of the Great Lakes Coastal Barrier Act of 1988, the Secretary shall recommend to Congress and prepare maps identifying the boundaries of those undeveloped coastal barriers along the shore areas of Great Lakes that the Secretary considers appropriate for inclusion in the Coastal Barrier Resources System.

"(B) EXCLUDED AREAS.—The Secretary may not recommend for inclusion as an undeveloped coastal barrier, and sections 5 and 6 of this Act do not apply to, any area that is publicly owned and protected by Federal, State, or local government law, or held by a qualified organization defined in section 170(h)(3) of the Tax Reform Act of 1986 (26 U.S.C. 170(h)(3)), primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes.

"(2) CONSULTATIONS AND CONSIDERATIONS.—Before recommending undeveloped coastal barriers under paragraph (1) of this section, the Secretary shall—

"(A) consult with and provide an opportunity for comment by appropriate United States Government agencies, State agencies (including the coastal zone management agencies) of the States bordering the Great Lakes, and the public; and

"(B) update on the basis of aerial photographs and consider the draft coastal barrier inventory maps prepared by the Secretary in January 1985 for the States of Michigan, Wisconsin, Ohio, New York (Great Lakes) and Minnesota. State listing.

"(3) PROVISION OF MAPS.—As soon as practicable after the revision of the maps referred to in paragraph (2)(B) of this subsection is completed, the Secretary shall provide copies of the maps to—

"(A) each appropriate State and county or equivalent jurisdiction in which System units are located;

"(B) the coastal zone management agency in each appropriate State that has a coastal zone management program approved under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455); 102 STAT. 4714

"(C) each appropriate United States Government agency; and

"(D) the Congress.

"(4) PUBLIC INSPECTION OF MAPS.—The Director of the United States Fish and Wildlife Service shall make available for public inspection all maps prepared under this section.

"(c) BOUNDARY MODIFICATIONS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) conduct a review of the System maps at least once every 5 years after the date of the enactment of the Great Lakes Coastal Barrier Act of 1988; and

"(B) subject to paragraph (2), make any minor and technical modifications to the boundaries of any System unit that are necessary solely to reflect changes that have occurred in the size or location of that unit as a result of natural forces.

"(2) CONSULTATIONS.—The Secretary shall conduct the reviews required under paragraph (1) in consultation with the chief executive officer of—

"(A) each appropriate State and county equivalent jurisdiction in which System units are located;

"(B) the coastal zone management agency in each appropriate State that has a coastal zone management program approved under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455);

"(C) each appropriate United States Government agency; and

"(D) the public.

"(d) SYSTEM MAPS.—The Office of the Director of the United States Fish and Wildlife Service, Department of the Interior, and other appropriate offices of the Service shall have available for public inspection all System maps.". Public information.

(c) CONFORMING AMENDMENTS.—

(1) CONGRESSIONAL FINDINGS.—Section 2 of the Coastal Barrier Resources Act (16 U.S.C. 3501) is amended by inserting

"and along the shore areas of the Great Lakes" after "Atlantic and Gulf coasts" at each place it appears.

(2) DEFINITIONS.—Section 3 of the Coastal Barrier Resources Act (16 U.S.C. 3502) is amended as follows:

(A) REDESIGNATION.—Paragraphs (4) and (5), and any reference thereto, are redesignated as paragraphs (5) and (7), respectively.

(B) GREAT LAKES DEFINED.—The following is inserted after paragraph (3):

"(4) The term 'Great Lakes' means Lake Ontario, Lake Erie, Lake Huron, Lake St. Clair, Lake Michigan, and Lake Superior, to the extent that those lakes are subject to the jurisdiction of the United States.".

(C) SYSTEM MAPS DEFINED.—The following is inserted after paragraph (5) (as redesignated):

"(6) The term 'system maps' means—

"(A) the maps that are entitled 'Coastal Barrier Resources System', numbered A01 through T12 (but excluding maps T02 and T03) and dated September 30, 1982, and the maps numbered T02A and T03A and dated December 8, 1982; and

102 STAT. 4715

"(B) the maps prepared under section 4(b) of this Act and any modification to those maps under that section.".

16 USC 3505 note.

(d) EXPANSION OF HIGHWAYS IN MICHIGAN.—The limitations on the use of Federal expenditures or financial assistance within the Coastal Barrier Resources System under section 6(a)(3) of the Coastal Barrier Resources Act (16 U.S.C. 3505(a)(3)) shall not apply to existing highways located within the State of Michigan if the Congress adds new units to the Coastal Barrier Resources System under section 4 of that Act, and those units include portions of United States or State highways in the State of Michigan.

33 USC 426p note.

SEC. 205. DEFINITIONS.

For purposes of this title—

(1) DIRECTOR.—The term "Director" means the Director of the Federal Emergency Management Agency.

(2) HIGH WATER LEVELS.—The term "high water levels" means water levels above the long-term average of water levels from 1900.

(3) LOCAL GOVERNMENT.—The term "local government" means a county, city, village, town, district, or other political subdivision of a Great Lakes State and an Indian tribe or authorized tribal organization.

(4) GREAT LAKES STATE.—The term "Great Lakes State" means Minnesota, Wisconsin, Illinois, Ohio, Michigan, Indiana, Pennsylvania, and New York.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

The last sentence of section 91 of the Water Resources Development Act of 1974 (88 Stat. 39), relating to authorization of appropriations for the New York Harbor collection and removal of drift project, is amended by striking out "$30,500,000" and inserting in lieu thereof "$6,000,000 annually".

SEC. 302. HUDSON RIVER CHANNEL.

That portion of Public Law 100-202 designated as the Energy and Water Development Appropriation Act of 1988 is amended by striking out in the undesignated paragraph "The following portion of the Hudson River" all that follows through "the States of New York and New Jersey." (101 Stat. 1329-109) and inserting in lieu thereof the following:

"The following portion of the Hudson River in the Borough of Manhattan, New York County, State of New York, is hereby declared not to be part of the federally authorized Channel Deepening

Project: that portion of the Hudson River and land thereunder more particularly bounded and described as follows: Beginning at a point in the United States Pierhead Line approved by the Secretary of War on July 31, 1941, said point having a coordinate of North 4,677.56 feet and West 11,407.92 feet and running: (1) Northerly along said Pierhead Line on a bearing of N21–01'–53"W for a distance of 700.00 feet to a point; thence (2) Westerly at right angles to said Pierhead Line on a bearing of S68–58'–07"W for a distance of 200.00 feet to a point; thence (3) Southerly and parallel with said 102 STAT. 4716
Pierhead Line on a bearing of S21–01'–53"E for a distance of 700.00 feet to a point; thence (4) Easterly at right angles to said Pierhead Line on a bearing of N68–58'–07"E for a distance of 200.00 feet to the point of beginning. Bearings and coordinates are in the system used on the Borough Survey, Borough President's Office, Manhattan. This declaration shall apply to all or any part of the described area which is used or needed for New York Harbor passenger ferry boat service, as such service may be operated by, or contracted for operation by, a bi-State agency created by compact between the States of New York and New Jersey.".

Compacts between States.

Approved November 23, 1988.

LEGISLATIVE HISTORY—H.R. 2707 (S. 2380):

HOUSE REPORTS: No. 100–517 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 100–524 accompanying S. 2380 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 17, considered and passed House.
Oct. 21, considered and passed Senate, amended. House concurred in Senate amendment.

(2) in subsection (b)(2)—

(A) by inserting "(1) in the case of a drug," after "means" in the first sentence and by adding before the period in that sentence a comma and "(2) in the case of a medical device, any disease or condition that occurs so infrequently in the United States that there is no reasonable expectation that a medical device for such disease or condition will be developed without assistance under subsection (a)", and

(B) by striking out "under this subsection" in the last sentence and inserting in lieu thereof "under section 526 of the Federal Food, Drug, and Cosmetic Act".

(b) MEDICAL FOODS.—Section 5 of the Orphan Drug Act (21 U.S.C. 360ee) is amended—

(1) in subsection (a) (as amended by subsection (a)), by inserting before the period a comma and "and (3) defraying the costs of developing medical foods for rare diseases or conditions",

(2) in subsection (b)(2) (as amended by subsection (a)), by inserting before the period at the end of the first sentence a comma and "and (3) in the case of a medical food, any disease or condition that occurs so infrequently in the United States that there is no reasonable expectation that a medical food for such disease or condition will be developed without assistance under subsection (a)", and

(3) by adding at the end of subsection (b) the following: "(3) The term 'medical food' means a food which is formulated to be consumed or administered enterally under the supervision of a physician and which is intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation.".

(c) AUTHORIZATION.—Section 5(c) of the Orphan Drug Act (21 U.S.C. 360ee(c)) is amended to read as follows:

"(c) For grants and contracts under subsection (a) there are authorized to be appropriated $10,000,000 for fiscal year 1988, $12,000,000 for fiscal year 1989, $14,000,000 for fiscal year 1990.".

Taxes.
21 USC 360aa note.

(d) STUDY.—The Secretary of Health and Human Services shall conduct a study to determine whether the application of subchapter B of chapter V of the Federal Food, Drug, and Cosmetic Act (relating to drugs for rare diseases and conditions) and section 28 of the Internal Revenue Code of 1986 (relating to tax credit) to medical devices or medical foods for rare diseases or conditions or to both is needed to encourage the development of such devices and foods. The Secretary shall report the results of the study to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate not later than one year after the date of the enactment of this Act. For purposes of this section, the term "rare diseases or conditions" has the meaning prescribed by section 5 of the Orphan Drug Act (21 U.S.C. 360ee).

Reports.

102 STAT. 92

SEC. 4. NATIONAL COMMISSION ON ORPHAN DISEASES.

Section 4(n) of the Orphan Drug Amendments of 1985 (42 U.S.C. 236 note) is amended by striking out "September 30, 1987" and inserting in lieu thereof "February 1, 1989".

Approved April 18, 1988.

LEGISLATIVE HISTORY—H.R. 3459:

HOUSE REPORTS: No. 100-473 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 22, considered and passed House.
Mar. 31, considered and passed Senate.

Public Law 100-294
100th Congress

102 STAT. 102

An Act

To amend the Child Abuse Prevention and Treatment Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Family Violence Prevention and Services Act to extend through fiscal year 1991 the authorities established in such Acts.

Apr. 25, 1988
[H.R. 1900]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Child Abuse Prevention, Adoption, and Family Services Act of 1988. 42 USC 5101 note.

This Act may be referred to as the "Child Abuse Prevention, Adoption, and Family Services Act of 1988".

TITLE I—CHILD ABUSE PREVENTION AND TREATMENT ACT

State and local governments. Health and medical care. Health care professionals. Health care facilities.

SEC. 101. AMENDMENT TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT.

The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

42 USC 5101 note.

"(a) SHORT TITLE.—This Act may be cited as the 'Child Abuse Prevention and Treatment Act'.

"(b) TABLE OF CONTENTS.—The table of contents is as follows:

"TABLE OF CONTENTS

"Sec. 1. Short title and table of contents.
"Sec. 2. National Center on Child Abuse and Neglect.
"Sec. 3. Advisory Board on Child Abuse and Neglect.
"Sec. 4. Inter-Agency Task Force on Child Abuse and Neglect.
"Sec. 5. National clearinghouse for information relating to child abuse.
"Sec. 6. Research and assistance activities of the National Center on Child Abuse and Neglect.
"Sec. 7. Grants to public agencies and nonprofit private organizations for demonstration or service programs and projects.
"Sec. 8. Grants to States for child abuse and neglect prevention and treatment programs.
"Sec. 9. Technical assistance to States for child abuse prevention and treatment programs.
"Sec. 10. Grants to States for programs relating to the investigation and prosecution of child abuse cases.
"Sec. 11. Miscellaneous requirements relating to assistance.
"Sec. 12. Coordination of child abuse and neglect programs.
"Sec. 13. Reports.
"Sec. 14. Definitions.
"Sec. 15. Authorization of appropriations.

"SEC. 2. NATIONAL CENTER ON CHILD ABUSE AND NEGLECT.

Establishment. 42 USC 5101.

"(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish an office to be known as the National Center on Child Abuse and Neglect.

"(b) APPOINTMENT OF DIRECTOR.—

"(1) APPOINTMENT.—The Secretary shall appoint a Director of the Center. Except as otherwise provided in this Act, the Director shall be responsible only for administration and operation of the Center and for carrying out the functions of the Center under this Act. The Director shall have experience in the field of child abuse and neglect.

Public Law 100-290
100th Congress

102 STAT. 90

An Act

To amend the Federal Food, Drug, and Cosmetic Act to revise the provisions respecting orphan drugs, and for other purposes.

Apr. 18, 1988
[H.R. 3459]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Orphan Drug Amendments of 1988.
Diseases.
21 USC 301 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Orphan Drug Amendments of 1988".

SEC. 2. DESIGNATION AS AN ORPHAN DRUG.

(a) REQUEST.—Section 526(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb(a)(1)) is amended by adding after the first sentence the following: "A request for designation of a drug shall be made before the submission of an application under section 505(b) for the drug, the submission of an application for certification of the drug under section 507, or the submission of an application for licensing of the drug under section 351 of the Public Health Service Act.".

(b) DISCONTINUANCE.—Section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by adding after subsection (a) the following:

"(b) A designation of a drug under subsection (a) shall be subject to the condition that—

"(1) if an application was approved for the drug under section 505(b), a certificate was issued for the drug under section 507, or a license was issued for the drug under section 351 of the Public Health Service Act, the manufacturer of the drug will notify the Secretary of any discontinuance of the production of the drug at least one year before discontinuance, and

"(2) if an application has not been approved for the drug under section 505(b), a certificate has not been issued for the drug under section 507, or a license has not been issued for the drug under section 351 of the Public Health Service Act and if preclinical investigations or investigations under section 505(i) are being conducted with the drug, the manufacturer or sponsor of the drug will notify the Secretary of any decision to discontinue active pursuit of approval of an application under section 505(b), approval of an application for certification under section 507, or approval of a license under section 351 of the Public Health Service Act.".

SEC. 3. FINANCIAL ASSISTANCE.

(a) MEDICAL DEVICES.—Section 5 of the Orphan Drug Act (21 U.S.C. 360ee) is amended—

(1) in subsection (a), by inserting "(1)" after "assist in" and by inserting before the period a comma and "(2) defraying the costs of developing medical devices for rare diseases or conditions", and

102 STAT. 91

"(2) COMPENSATION.—The Director shall be compensated at the annual rate provided for a level GS-15 employee under section 5332 of title 5, United States Code.

"(c) OTHER STAFF AND RESOURCES.—The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively its functions under this Act. The Secretary shall require that professional staff have experience relating to child abuse and neglect. The Secretary is required to justify, based on the priorities and needs of the Center, the hiring of any professional staff member who does not have experience relating to child abuse and neglect.

42 USC 5102.

"SEC. 3. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.

"(a) APPOINTMENT.—The Secretary shall appoint an advisory board to be known as the Advisory Board on Child Abuse and Neglect.

Federal Register, publication.

"(b) SOLICITATION OF NOMINATIONS.—The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointments required by subsection (a).

"(c) COMPOSITION OF BOARD.—

"(1) NUMBER OF MEMBERS.—The board shall consist of 15 members, each of which shall be a person who is recognized for expertise in an aspect of the area of child abuse, of which—

"(A) 2 shall be members of the task force established under section 4; and

"(B) 13 shall be members of the general public and may not be Federal employees.

"(2) REPRESENTATION.—The Secretary shall appoint members from the general public under paragraph (1)(B) who are individuals knowledgeable in child abuse and neglect prevention, intervention, treatment, or research, and with due consideration to representation of ethnic or racial minorities and diverse geographic areas, and who represent—

"(A) law (including the judiciary);

"(B) psychology (including child development);

"(C) social services (including child protective services);

"(D) medicine (including pediatrics);

"(E) State and local government;

"(F) organizations providing services to disabled persons;

"(G) organizations providing services to adolescents;

"(H) teachers;

"(I) parent self-help organizations;

"(J) parents' groups; and

"(K) voluntary groups.

102 STAT. 104

"(3) TERMS OF OFFICE.—(A) Except as otherwise provided in this subsection, members shall be appointed for terms of office of 4 years.

"(B) Of the members of the board from the general public first appointed under subsection (a)—

"(i) 4 shall be appointed for terms of office of 2 years;

"(ii) 4 shall be appointed for terms of office of 3 years; and

"(iii) 5 shall be appointed for terms of office of 4 years,

as determined by the members from the general public during the first meeting of the board.

"(C) No member of the board appointed under subsection (a) shall be eligible to serve in excess of two consecutive terms, but may continue to serve until such member's successor is appointed.

"(4) VACANCIES.—Any member of the board appointed under subsection (a) to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term. If the vacancy occurs prior to the expiration of the term of a member of the board appointed under subsection (a), a replacement shall

be appointed in the same manner in which the original appointment was made.

"(5) REMOVAL.—No member of the board may be removed during the term of office of such member except for just and sufficient cause.

"(d) ELECTION OF OFFICERS.—The board shall elect a chairperson and vice-chairperson at its first meeting from among the members from the general public.

"(e) MEETINGS.—The board shall meet not less than twice a year at the call of the chairperson. The chairperson, to the maximum extent practicable, shall coordinate meetings of the board with receipt of reports from the task force under section 4(f).

"(f) DUTIES.—The board shall— Reports.

"(1) annually submit to the Secretary and the appropriate committees of Congress a report containing—

"(A) recommendations on coordinating Federal child abuse and neglect activities to prevent duplication and ensure efficient allocations of resources and program effectiveness; and

"(B) recommendations as to carrying out the purposes of this Act;

"(2) annually submit to the Secretary and the Director a report containing long-term and short-term recommendations on—

"(A) programs;

"(B) research;

"(C) grant and contract needs;

"(D) areas of unmet needs; and

"(E) areas to which the Secretary should provide grant and contract priorities under sections 6 and 7; and

"(3) annually review the budget of the Center and submit to the Director a report concerning such review.

"(g) COMPENSATION.—

"(1) IN GENERAL.—Except as provided in paragraph (3), members of the board, other than those regularly employed by the Federal Government, while serving on business of the board, may receive compensation at a rate not in excess of the daily equivalent payable to a GS–18 employee under section 5332 of title 5, United States Code, including traveltime. 102 STAT. 105

"(2) TRAVEL.—Except as provided in paragraph (3), members of the board, while serving on business of the board away from their homes or regular places of business, may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(3) RESTRICTION.—The Director may not compensate a member of the board under this section if the member is receiving compensation or travel expenses from another source while serving on business of the board.

"SEC. 4. INTER-AGENCY TASK FORCE ON CHILD ABUSE AND NEGLECT. Establishment. 42 USC 5103.

"(a) ESTABLISHMENT.—The Secretary shall establish a task force to be known as the Inter-Agency Task Force on Child Abuse and Neglect.

"(b) COMPOSITION.—The Secretary shall request representation for the task force from Federal agencies with responsibility for programs and activities related to child abuse and neglect.

"(c) CHAIRPERSON.—The task force shall be chaired by the Director.

"(d) DUTIES.—The task force shall—

"(1) coordinate Federal efforts with respect to child abuse prevention and treatment programs;

"(2) encourage the development by other Federal agencies of activities relating to child abuse prevention and treatment;

"(3) coordinate the use of grants received under this Act with the use of grants received under other programs;

"(4) prepare a comprehensive plan for coordinating the goals, objectives, and activities of all Federal agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and submit such plan to such Advisory Board not later than 12 months after the date of enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988; and

"(5) coordinate adoption related activities, develop Federal standards with respect to adoption activities under this Act, and prevent duplication with respect to the allocation of resources to adoption activities.

"(e) MEETINGS.—The task force shall meet not less than three times annually at the call of the chairperson.

"(f) REPORTS.—The task force shall report not less than twice annually to the Center and the Board.

42 USC 5104.

"SEC. 5. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

Contracts.

"(a) ESTABLISHMENT.—Before the end of the 2-year period beginning on the date of the enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988, the Secretary shall through the Center, or by contract of no less than 3 years duration let through a competition, establish a national clearinghouse for information relating to child abuse.

"(b) FUNCTIONS.—The Director shall, through the clearinghouse established by subsection (a)—

102 STAT. 106

"(1) maintain, coordinate, and disseminate information on all programs, including private programs, that show promise of success with respect to the prevention, identification, and treatment of child abuse and neglect, including the information provided by the National Center for Child Abuse and Neglect under section 6(b); and

"(2) maintain and disseminate information relating to—

"(A) the incidence of cases of child abuse and neglect in the general population;

"(B) the incidence of such cases in populations determined by the Secretary under section 105(a)(1);

"(C) the incidence of any such cases related to alcohol or drug abuse; and

"(D) State and local recordkeeping with respect to such cases.

"(c) COORDINATION WITH AVAILABLE RESOURCES.—In establishing a national clearinghouse as required by subsection (a), the Director shall—

"(1) consult with other Federal agencies that operate similar clearinghouses;

"(2) consult with the head of each agency that is represented on the task force on the development of the components for information collection and management of such clearinghouse;

"(3) develop a Federal data system involving the elements under subsection (b) which, to the extent practicable, coordinates existing State, regional, and local data systems; and

"(4) solicit public comment on the components of such clearinghouse.

42 USC 5105.

"SEC. 6. RESEARCH AND ASSISTANCE ACTIVITIES OF THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT.

"(a) RESEARCH.—

"(1) TOPICS.—The Secretary shall, through the Center, conduct research on—

"(A) the causes, prevention, identification, and treatment of child abuse and neglect;

"(B) appropriate and effective investigative, administrative, and judicial procedures with respect to cases of child abuse; and

"(C) the national incidence of child abuse and neglect, including—

"(i) the extent to which incidents of child abuse are increasing or decreasing in number and severity;

"(ii) the relationship of child abuse and neglect to nonpayment of child support, handicaps, and various other factors; and

"(iii) the incidence of substantiated reported child abuse cases that result in civil child protection proceedings or criminal proceedings, including the number of such cases with respect to which the court makes a finding that abuse or neglect exists and the disposition of such cases.

"(2) PRIORITIES.—(A) The Secretary shall establish research and demonstration priorities for making grants or contracts for purposes of carrying out paragraph (1)(A) and activities under section 7. Grants. Contracts.

"(B) In establishing research and demonstration priorities as required by subparagraph (A), the Secretary shall— 102 STAT. 107

"(i) publish proposed priorities in the Federal Register for public comment; and Federal Register, publication.

"(ii) allow not less than 60 days for public comment on such proposed priorities.

"(b) PUBLICATION AND DISSEMINATION OF INFORMATION.—The Secretary shall, through the Center—

"(1) as a part of research activities establish a national data collection and analysis program, which, to the extent practical, coordinates existing State child abuse and neglect reports and which shall include— Reports.

"(A) standardized data on false, unfounded, or unsubstantiated reports; and

"(B) information on the number of deaths due to child abuse and neglect;

"(2) annually compile and analyze research on child abuse and neglect and publish a summary of such research;

"(3) compile, evaluate, publish, and disseminate to the States and to the clearinghouse, established under section 5, materials and information designed to assist the States in developing, establishing, and operating the programs described in section 10, including an evaluation of—

"(A) various methods and procedures for the investigation and prosecution of child physical and sexual abuse cases; and

"(B) resultant psychological trauma to the child victim;

"(4) compile, publish, and disseminate training materials—

"(A) for persons who are engaged in or intend to engage in the prevention, identification, and treatment of child abuse and neglect; and

"(B) to appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to abuse; and

"(5) establish model information collection systems, in consultation with appropriate State and local agencies and professionals.

"(c) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary shall, through the Center, provide technical assistance to public and nonprofit private agencies and organizations, including disability organizations and persons who work with children with handicaps, to assist such agencies and organizations in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect. Handicapped persons.

"(d) AUTHORITY TO MAKE GRANTS OR ENTER INTO CONTRACTS.—

"(1) IN GENERAL.—The functions of the Secretary under this section may be carried out either directly or through grant or contract.

"(2) DURATION.—Grants under this section shall be made for periods of not more than 5 years. The Secretary shall review each such grant at least annually, utilizing peer review mechanisms to assure the quality and progress of research conducted under such grant.

"(3) PREFERENCE FOR LONG-TERM STUDIES.—In making grants for purposes of conducting research under subsection (a), the Secretary shall give special consideration to applications for long-term projects.

102 STAT. 108

"(e) PEER REVIEW FOR GRANTS.—

Contracts.

"(1) ESTABLISHMENT OF PEER REVIEW PROCESS.—(A) The Secretary shall establish a formal peer review process for purposes of evaluating applications for grants and contracts under this section and determining the relative merits of the projects for which such assistance is requested.

"(B) Members of peer review panels shall be appointed by the Secretary from among individuals who are not officers or employees of the Office of Human Development Services. In making appointments to such panels, the Secretary shall include only experts in the field of child abuse and neglect.

Contracts.

"(2) REVIEW OF APPLICATIONS FOR ASSISTANCE.—Each peer review panel established under paragraph (1)(A) that reviews any application for a grant, contract, or other financial assistance shall—

"(A) determine the merit of each project described in such application; and

"(B) rank such application with respect to all other applications it reviews in the same priority area for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested.

"(3) NOTICE OF APPROVAL.—(A) At the end of each application process, the Secretary shall make available upon request, no later than 14 days after the request, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate the list which identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2) and a list of all applications funded.

"(B) In the instance in which the Secretary approves an application for a program without having approved all applications ranked above such application (as determined under subsection (e)(2)(B)), the Secretary shall append to the approved application a detailed explanation of the reasons relied on for approving the application and for failing to approve each pending application that is superior in merit, as indicated on the list under subsection (e)(2)(B).

Contracts.
42 USC 5106.

"SEC. 7. GRANTS TO PUBLIC AGENCIES AND NONPROFIT PRIVATE ORGANIZATIONS FOR DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS.

"(a) GENERAL AUTHORITY.—The Secretary, through the Center, shall, in accordance with subsections (b) and (c), make grants to, and enter into contracts with, public agencies or nonprofit private organizations (or combinations of such agencies or organizations) for demonstration or service programs and projects designed to prevent, identify, and treat child abuse and neglect.

"(b) GRANTS FOR RESOURCE CENTERS.—The Secretary shall, directly or through grants or contracts with public or private nonprofit organizations under this section, provide for the establishment of resource centers—

"(1) serving defined geographic areas;

"(2) staffed by multidisciplinary teams of personnel trained in the prevention, identification, and treatment of child abuse and neglect; and 102 STAT. 109

"(3) providing advice and consultation to individuals, agencies, and organizations which request such services.

"(c) DISCRETIONARY GRANTS.—In addition to grants or contracts made under subsection (b), grants or contracts under this section may be used for the following: Education.

"(1) Training programs—

"(A) for professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect; or

"(B) to provide instruction in methods of protecting children from child abuse and neglect to children and to persons responsible for the welfare of children, including parents of and persons who work with children with handicaps. Handicapped persons.

"(2) Such other innovative programs and projects as the Secretary may approve, including programs and projects for parent self-help, for prevention and treatment of alcohol and drug-related child abuse and neglect, and for home health visitor programs designed to reach parents of children in populations in which risk is high, that show promise of successfully preventing and treating cases of child abuse and neglect, and for a parent self-help program of demonstrated effectiveness which is national in scope. Alcohol and alcoholic beverages. Drugs and drug abuse.

"(3) Projects which provide educational identification, prevention, and treatment services in cooperation with preschool and elementary and secondary schools.

"(4) Respite and crisis nursery programs provided by community-based organizations under the direction and supervision of hospitals.

"(5) Respite and crisis nursery programs provided by community-based organizations.

"(6)(A) Providing hospital-based information and referral services to—

"(i) parents of children with handicaps; and

"(ii) children who have been neglected or abused and their parents.

"(B) Except as provided in subparagraph (C)(iii), services provided under a grant received under this paragraph shall be provided at the hospital involved—

"(i) upon the birth or admission of a handicapped child; and

"(ii) upon the treatment of a child for abuse or neglect.

"(C) Services, as determined as appropriate by the grantee, provided under a grant received under this paragraph shall be hospital-based and shall consist of—

"(i) the provision of notice to parents that information relating to community services is available;

"(ii) the provision of appropriate information to parents of a child with handicaps regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child; 102 STAT. 110

"(iii) the provision of appropriate information to parents of a child who has been neglected or abused regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child and reduce the possibility of abuse or neglect;

"(iv) the provision of appropriate follow-up services to parents of a child described in subparagraph (B) after the child has left the hospital; and

"(v) where necessary, assistance in coordination of community services available to parents of children described in subparagraph (B).

The grantee shall assure that parental involvement described in this subparagraph is voluntary.

"(D) For purposes of this paragraph, a qualified grantee is a nonprofit acute care hospital that—

"(i) is in a combination with—

"(I) a health-care provider organization;

"(II) a child welfare organization;

"(III) a disability organization; and

"(IV) a State child protection agency;

"(ii) submits an application for a grant under this paragraph that is approved by the Secretary;

"(iii) maintains an office in the hospital involved for purposes of providing services under such grant;

"(iv) provides assurances to the Secretary that in the conduct of the project the confidentiality of medical, social, and personal information concerning any person described in subparagraph (A) or (B) shall be maintained, and shall be disclosed only to qualified persons providing required services described in subparagraph (C) for purposes relating to conduct of the project; and

"(v) assumes legal responsibility for carrying out the terms and conditions of the grant.

Urban areas. Rural areas.

"(E) In awarding grants under this paragraph, the Secretary shall—

"(i) give priority under this section for two grants under this paragraph, provided that one grant shall be made to provide services in an urban setting and one grant shall be made to provide services in rural setting; and

"(ii) encourage qualified grantees to combine the amounts received under the grant with other funds available to such grantees.

"(7) Such other innovative programs and projects that show promise of preventing and treating cases of child abuse and neglect as the Secretary may approve.

42 USC 5106a.

"SEC. 8. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.

"(a) DEVELOPMENT AND OPERATION GRANTS.—The Secretary, through the Center, is authorized to make grants to the States for purposes of assisting the States in developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.

"(b) ELIGIBILITY REQUIREMENTS.—In order for a State to qualify for a grant under subsection (a), such State shall—

"(1) have in effect a State law relating to child abuse and neglect, including—

102 STAT. 111

"(A) provisions for the reporting of known and suspected instances of child abuse and neglect; and

"(B) provisions for immunity from prosecution under State and local laws for persons who report instances of child abuse or neglect for circumstances arising from such reporting;

"(2) provide that upon receipt of a report of known or suspected instances of child abuse or neglect an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse or neglect, immediate steps shall be taken to protect the health and welfare of the abused or neglected child and of any other child under the same care who may be in danger of abuse or neglect;

"(3) demonstrate that there are in effect throughout the State, in connection with the enforcement of child abuse and neglect laws and with the reporting of suspected instances of child abuse and neglect, such—

"(A) administrative procedures;

"(B) personnel trained in child abuse and neglect prevention and treatment;

"(C) training procedures;

"(D) institutional and other facilities (public and private); and

"(E) such related multidisciplinary programs and services,

as may be necessary or appropriate to ensure that the State will deal effectively with child abuse and neglect cases in the State;

"(4) provide for methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians; Confidential information.

"(5) provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services;

"(6) provide that in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child in such proceedings;

"(7) provide that the aggregate of support for programs or projects related to child abuse and neglect assisted by State funds shall not be reduced below the level provided during fiscal year 1973, and set forth policies and procedures designed to ensure that Federal funds made available under this Act for any fiscal year shall be so used as to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects;

"(8) provide for dissemination of information, including efforts to encourage more accurate reporting, to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat instances of child abuse and neglect; Public information.

"(9) to the extent feasible, ensure that parental organizations combating child abuse and neglect receive preferential treatment; and

"(10) have in place for the purpose of responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for— Handicapped persons.

"(A) coordination and consultation with individuals designated by and within appropriate health-care facilities;

"(B) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

"(C) authority, under State law, for the State child protective service system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

"(c) WAIVERS.—

"(1) GENERAL RULE.—Subject to paragraph (3) of this subsection, any State which does not qualify for assistance under this subsection may be granted a waiver of any requirement under paragraph (2) of this subsection—

"(A) for a period of not more than one year, if the Secretary makes a finding that such State is making a good faith effort to comply with any such requirement, and for a second one-year period if the Secretary makes a finding that such State is making substantial progress to achieve such compliance; or

"(B) for a nonrenewable period of not more than two years in the case of a State the legislature of which meets only biennially, if the Secretary makes a finding that such State is making a good faith effort to comply with such requirement.

"(2) EXTENSION.—(A) Subject to paragraph (3) of this subsection, any State whose waiver under paragraph (1) expired as of the end of fiscal year 1986 may be granted an extension of such waiver, if the Secretary makes a finding that such State is making a good faith effort to comply with the requirements under subsection (b) of this section—

"(i) through the end of fiscal year 1988; or

"(ii) in the case of a State the legislature of which meets biennially, through the end of the fiscal year 1989 or the end of the next regularly scheduled session of such legislature, whichever is earlier.

Effective date.

"(B) This provision shall be effective retroactively to October 1, 1986.

"(3) REQUIREMENTS UNDER SUBSECTION (b)(10).—No waiver under paragraph (1) or (2) may apply to any requirement under subsection (b)(10) of this section.

"(d) REDUCTION OF FUNDS IN CASE OF FAILURE TO OBLIGATE.—If a State fails to obligate funds awarded under subsection (a) before the expiration of the 18-month period beginning on the date of such award, the next award made to such State under this section after the expiration of such period shall be reduced by an amount equal of the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate.

"(e) RESTRICTIONS RELATING TO CHILD WELFARE SERVICES.—Programs or projects relating to child abuse and neglect assisted under part B of title IV of the Social Security Act shall comply with the requirements set forth in paragraphs (1)(A), (2), (4), (5), and (10) of subsection (b).

102 STAT. 113

Handicapped persons.

"(f) COMPLIANCE AND EDUCATION GRANTS.—The Secretary is authorized to make grants to the States for purposes of developing, implementing, or operating—

"(1) the procedures or programs required under subsection (b)(10);

"(2) information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

"(A) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and

"(B) the parents of such infants; and

"(3) programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

"(A) existing social and health services;

"(B) financial assistance; and

"(C) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption.

42 USC 5106b.

"SEC. 9. TECHNICAL ASSISTANCE TO STATES FOR CHILD ABUSE PREVENTION AND TREATMENT PROGRAMS.

Grants. Contracts.

"(a) TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide, directly or through grants or contracts with public or private nonprofit organizations, for—

"(1) training and technical assistance programs to assist States in developing, implementing, or operating programs and procedures meeting the requirements of section 8(b)(10); and

Public information. Handicapped persons.

"(2) the establishment and operation of national and regional information and resource clearinghouses for the purpose of providing the most current and complete information regarding medical treatment procedures and resources and community

resources for the provision of services and treatment to disabled infants with life-threatening conditions, including—

"(A) compiling, maintaining, updating, and disseminating regional directories of community services and resources (including the names and phone numbers of State and local medical organizations) to assist parents, families, and physicians; and

"(B) attempting to coordinate the availability of appropriate regional education resources for health-care personnel. Education.

"(b) LIMITATION ON FUNDING.—Not more than $1,000,000 of the funds appropriated for any fiscal year for purposes of carrying out this Act may be used to carry out this section.

"SEC. 10. GRANTS TO STATES FOR PROGRAMS RELATING TO THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES. 42 USC 5106c.

"(a) GRANTS TO STATES.—The Secretary, acting through the Center and in consultation with the Attorney General, is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

102 STAT. 114

"(1) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim; and

"(2) the investigation and prosecution of cases of child abuse, particularly child sexual abuse.

"(b) ELIGIBILITY REQUIREMENTS.—In order for a State to qualify for assistance under this section, such State shall—

"(1) fulfill the requirements of sections 8(b) and 8(e) or receive a waiver under section 8(c);

"(2) establish a task force as provided in subsection (c);

"(3) fulfill the requirements of subsection (d); and

"(4) submit an application to the Secretary at such time and containing such information and assurances as the Secretary considers necessary, including an assurance that the State will—

"(A) make such reports to the Secretary as may reasonably be required; and Reports.

"(B) maintain and provide access to records relating to activities under subsections (a) and (b). Records.

"(c) STATE TASK FORCES.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), a State requesting assistance under this section shall establish or designate a State multidisciplinary task force on children's justice (hereinafter referred to as 'State task force') composed of professionals with knowledge and experience relating to the criminal justice system and issues of child abuse. The State task force shall include—

"(A) individuals representing the law enforcement community;

"(B) judicial and legal officers (including individuals involved with the defense as well as the prosecution of such cases);

"(C) child advocates;

"(D) health and mental health professionals;

"(E) individuals representing child protective service agencies;

"(F) individuals experienced in working with children with handicaps;

"(G) parents; and

"(H) representatives of parents' groups.

"(2) EXISTING TASK FORCE.—As determined by the Secretary, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for purposes of this subsection.

"(d) STATE TASK FORCE STUDY.—Before a State receives assistance under this section, the State task force shall—

"(1) review and evaluate State investigative, administrative and judicial handling of cases of child abuse, particularly child sexual abuse; and

"(2) make recommendations in each of the categories described in subsection (e).

The task force may make such other comments and recommendations as are considered relevant and useful.

"(e) ADOPTION OF STATE TASK FORCE RECOMMENDATIONS.—

"(1) GENERAL RULE.—Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State shall adopt recommendations of the State task force in each of the following categories—

102 STAT. 115

"(A) investigative, administrative, and judicial handling of cases of child abuse, particularly child sexual abuse cases, in a manner which reduces the additional trauma to the child victim and which also ensures procedural fairness to the accused;

Research and development.

"(B) experimental, model and demonstration programs for testing innovative approaches and techniques which may improve the rate of successful prosecution or enhance the effectiveness of judicial and administrative action in child abuse cases, particularly child sexual abuse cases, and which also ensure procedural fairness to the accused; and

"(C) reform of State laws, ordinances, regulations and procedures to provide comprehensive protection for children from abuse, particularly child sexual abuse, while ensuring fairness to all affected persons.

"(2) EXEMPTION.—As determined by the Secretary, a State shall be considered to be in fulfillment of the requirements of this subsection if—

"(A) the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force's recommendations are not adopted; or

"(B) the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.

"(f) FUNDS AVAILABLE.—For grants under this section, the Secretary shall use the amount authorized by section 1404A of the Victims of Crime Act of 1984.

42 USC 5106d.

"SEC. 11. MISCELLANEOUS REQUIREMENTS RELATING TO ASSISTANCE.

"(a) CONSTRUCTION OF FACILITIES.—

"(1) RESTRICTION ON USE OF FUNDS.—Assistance provided under this Act may not be used for construction of facilities.

"(2) LEASE, RENTAL, OR REPAIR.—The Secretary may authorize the use of funds received under this Act—

"(A) where adequate facilities are not otherwise available, for the lease or rental of facilities; or

"(B) for the repair or minor remodeling or alteration of existing facilities.

Urban areas. Rural areas.

"(b) GEOGRAPHICAL DISTRIBUTION.—The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this Act among the States, among geographic areas of the Nation, and among rural and urban areas of the Nation. To the extent possible, the Secretary shall ensure that the citizens of each State receive assistance from at least one project under this Act.

Research and development. Grants.

"(c) PREVENTION ACTIVITIES.—The Secretary, in consultation with the task force and the board, shall ensure that a majority share of assistance under this Act is available for discretionary research and demonstration grants.

"(d) LIMITATION.—No funds appropriated for any grant or contract pursuant to authorizations made in this Act may be used for any

purpose other than that for which such funds were authorized to be appropriated.

102 STAT. 116

"SEC. 12. COORDINATION OF CHILD ABUSE AND NEGLECT PROGRAMS. 42 USC 5106e.

"The Secretary shall prescribe regulations and make such arrangements as may be necessary or appropriate to ensure that there is effective coordination among programs related to child abuse and neglect under this Act and other such programs which are assisted by Federal funds. Regulations.

"SEC. 13. REPORTS. 42 USC 5106f.

"(a) COORDINATION EFFORTS.—Not later than March 1 of the second year following the date of enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988 and every 2 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report on efforts during the 2-year period preceding the date of the report to coordinate the objectives and activities of agencies and organizations which are responsible for programs and activities related to child abuse and neglect.

"(b) EFFECTIVENESS OF STATE PROGRAMS AND TECHNICAL ASSISTANCE.—Not later than two years after the first fiscal year for which funds are obligated under section 1404A of the Victims of Crime Act of 1984, the Secretary shall submit to the appropriate committees of Congress a report evaluating the effectiveness of—

"(1) assisted programs in achieving the objectives of section 10; and

"(2) the technical assistance provided under section 9.

"SEC. 14. DEFINITIONS. 42 USC 5106g.

"For purposes of this Act—

"(1) the term 'board' means the Advisory Board on Child Abuse and Neglect established under section 3;

"(2) the term 'Center' means the National Center on Child Abuse and Neglect established under section 2;

"(3) the term 'child' means a person who has not attained the lesser of—

"(A) the age of 18; or

"(B) except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides;

"(4) the term 'child abuse and neglect' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child by a person who is responsible for the child's welfare, under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary;

"(5) the term 'person who is responsible for the child's welfare' includes—

"(A) any employee of a residential facility; and

"(B) any staff person providing out-of-home care;

"(6) the term 'Secretary' means the Secretary of Health and Human Services;

"(7) the term 'sexual abuse' includes—

"(A) the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or

102 STAT. 117

"(B) the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(8) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

"(9) the term 'task force' means the Inter-Agency Task Force on Child Abuse and Neglect established under section 4; and

"(10) the term 'withholding of medically indicated treatment' means the failure to respond to the infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician's or physicians' reasonable medical judgment—

"(A) the infant is chronically and irreversibly comatose;

"(B) the provision of such treatment would—

"(i) merely prolong dying;

"(ii) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

"(iii) otherwise be futile in terms of the survival of the infant; or

"(C) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

42 USC 5106h.

"SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated for purposes of carrying out this Act $48,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991. Of the funds appropriated for any fiscal year under this section, except as provided in the succeeding sentence (1)(A) $11,000,000 shall be available for activities under sections 5, 6, and 7, and (B), $9,000,000 shall be available in each fiscal year for activities under sections 8(a) and 9 of this Act, giving special consideration to continued funding of child abuse and neglect programs or projects (previously funded by the Department of Health and Human Services) of national or regional scope and demonstrated effectiveness, (2) $5,000,000 shall be available in each such year for grants and contracts under section 7(a) of this Act, for identification, treatment, and prevention of sexual abuse, and (3) $5,000,000 shall be available in each such year for the purpose of making additional grants to the States to carry out the provisions of section 8(f) of this Act. With respect to any fiscal year in which the total amount appropriated under this section is less than $30,000,000, no less than $20,000,000 of the funds appropriated in such fiscal year shall be available as provided in clause (1) in the preceding sentence and of the remainder, one-half shall be available as provided for in clause (2) and one-half as provided for in clause (3) in the preceding sentence.

Grants.
Contracts.

"(b) AVAILABILITY OF FUNDS WITHOUT FISCAL YEAR LIMITATION.—The Secretary shall ensure that funds appropriated pursuant to authorizations in this Act shall remain available until expended for the purposes for which they were appropriated.".

102 STAT. 118

42 USC 5105 note.

SEC. 102. CHILD ABUSE AND DISABILITY.

(a) STUDY.—The Director of the National Center on Child Abuse and Neglect shall conduct a study of—

(1) the incidence of child abuse among children with handicaps, including children in out-of-home placements, and the relationship between child abuse and children's handicapping conditions; and

(2) the incidence of children who have developed handicapping conditions as a result of child abuse or neglect.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to prevent abuse of disabled children.

SEC. 103. CHILD ABUSE AND ALCOHOLIC FAMILIES. 42 USC 5105 note.

(a) STUDY.—The Director of the National Center on Child Abuse and Neglect shall conduct a study of the incidence of child abuse in alcoholic families and the relationship between child abuse and familial alcoholism.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to prevent child abuse in alcoholic families.

SEC. 104. STUDY OF GUARDIAN-AD-LITEM. 42 USC 5105 note.

(a) STUDY.—The Director of the National Center on Child Abuse and Neglect shall conduct a study of—

(1) how individual legal representation of children in cases of child abuse or neglect has been provided in each State; and

(2) the effectiveness of legal representation of children in cases of abuse or neglect through the use of guardian-ad-litem and court appointed special advocates.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to improve legal representation of children in cases of abuse or neglect.

SEC. 105. HIGH RISK STUDY. 42 USC 5105 note.

(a) STUDY.—The Director of the National Center on Child Abuse and Neglect shall conduct a study—

(1) to identify groups which have been historically underserved or unserved by programs relating to child abuse and neglect; and

(2) to report the incidence of child abuse and neglect among children who are members of such groups.

102 STAT. 119

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to better meet the needs of underserved or unserved groups.

SEC. 106. PRESIDENTIAL COMMISSION ON CHILD AND YOUTH DEATHS. 42 USC 5101 note.

(a) FINDINGS.—The Congress finds that—

(1) even by conservative estimates, during 1985 and 1986, child abuse fatalities in this country increased by 23 percent;

(2) the average age of children who die from abuse and neglect is two years old;

(3) child abuse fatalities are not inherently predictable but many are preventable;

(4) many accidental childhood injuries are likewise preventable;

(5) accidental childhood injuries remain the biggest killer and disabler of children between the ages of 1 and 14;

(6) in the face of stagnating infant mortality indicators, the United States is now tied for last place among 20 industrialized nations with respect to infant mortality;

(7) the teen suicide rate is starting to climb again, with deaths totaling over 5,000 in 1986; and

(8) homicide is the second leading cause of death in youths aged fourteen to twenty-four years.

(b) ESTABLISHMENT OF COMMISSION.—There is established a National Commission on Child and Youth Deaths (hereafter in this section referred to as the "Commission"). The Commission shall be composed of fifteen members as follows:

(1) Two members of the Senate, one to be selected by the Majority Leader of the Senate, the other to be selected by the Minority Leader of the Senate.

(2) Two members of the House, one to be selected by the Speaker of the House of Representatives, the other to be selected by the Minority Leader of the House.

(3) Four representatives of State government shall be selected by the President:

(A) The chief executive officer of a State.

(B) A chief State official responsible for administering child health and mental health programs.

(C) A chief State official responsible for administering children's social services programs.

(D) A chief State official responsible for administering law enforcement programs.

(4) The Secretary of Health and Human Services.

(5) Six at large members, including representatives of community-based organizations with demonstrated expertise in the prevention and identification of child and youth deaths due to child abuse and neglect, infant mortality (including sudden infant death syndrome), suicide, homicide, and unintentional injuries, to be jointly selected by the Majority Leader of the Senate and Speaker of the House of Representatives.

(c) STUDY AND EVALUATION BY THE COMMISSION.—The Commission shall study and evaluate comprehensively Federal, State, and local public and private resources which affect child and youth deaths and shall—

102 STAT. 120

(1) evaluate the adequacy and effectiveness of programs designed to prevent or identify child and youth deaths which are intentionally caused or which occur due to negligence, neglect, or a failure to exercise proper care, including child health and mental health services, child protective services, child welfare services, education, juvenile justice services, and law enforcement activities;

(2) evaluate the effectiveness of current Federal, State, and local policies and systems aimed at appropriately identifying and collecting accurate, uniform data on child and youth deaths in a coordinated fashion;

(3) evaluate the adequacy of current Federal, State, and local efforts to enable an appropriate distribution of properly trained child health, mental health, social services, protective services, education, juvenile justice, and law enforcement personnel to prevent and identify child and youth deaths; and

(4) identify current resource limitations on and intergovernmental and Federal interagency barriers to the care needed to prevent high child and youth death rates.

In order to conduct the study and evaluation required by this subsection, the Commission shall hold hearings in areas of the United States with high child and youth death rates.

(d) RECOMMENDATIONS AND REPORT OF THE COMMISSION.—(1) The Commission shall make recommendations with respect to—

(A) a national policy designed to reduce and prevent child and youth deaths, including recommendations for more accurate reporting systems and recommendations concerning appropriate roles for the Federal Government, States, and local governments and the private sector;

(B) specific changes needed in Federal laws and Federal programs to achieve an effective Federal role in preventing child and youth deaths, including the programs specified in subparagraph (A); and

(C) specific changes needed to improve national data collection with respect to child and youth deaths.

In making its recommendations, the Commission shall review recommendations made in recent regional and national conferences and reports on child and youth deaths.

(2) Within 12 months after the appointment of the Commission, the Commission shall prepare and transmit to the President and the appropriate committees of the Congress a report describing the activities of the Commission and containing information gathered and evaluations required by subsection (c) and recommendations required by paragraph (1) of this subsection.

(e) ADMINISTRATION PROVISIONS.—(1) A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect its powers.

(2) Members shall be appointed for the life of the Commission.

(3) The members of the Commission shall elect a Chairman from among the members of the Commission.

(4) Eleven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(5) The Commission shall hold its first meeting on a date specified by the President which is not later than 90 days after October 1, 1988. Thereafter, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least three times during the life of the Commission. 102 STAT. 121

(f) COMPENSATION OF MEMBERS.—(1) Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation.

(2) While away from their homes or regular place of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) EXECUTIVE DIRECTOR OF COMMISSION.—(1) The Commission shall appoint an Executive Director who shall be compensated at a rate not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(3) The Executive Director and the additional personnel of the Commission referred to in paragraph (2) may be appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(4) Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

(5) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative and support services as the Commission may request.

(h) POWERS OF COMMISSION.—(1) For the purpose of carrying out this section, the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this section. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(i) AUTHORIZATION OF APPROPRIATIONS.—For fiscal years beginning after September 30, 1987, there are authorized to be appropriated such sums as may be necessary to carry out this section.

102 STAT. 122

(j) TERMINATION.—The Commission shall terminate 90 days after the date on which the Commission transmits the report required under subsection (d)(2) to the President and the appropriate committees of Congress.

TITLE II—CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978

SEC. 201. AUTHORIZATION FOR CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978.

42 USC 5115.

Section 205 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 205. (a) There are hereby authorized to be appropriated $6,000,000 for the fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991 to carry out programs and activities under this Act except for programs and activities authorized under sections 203(b)(8) and 203(c)(1).

"(b) For any fiscal year in which appropriations under subsection (a) exceeds $5,000,000, there are authorized to be appropriated $3,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991 for the purpose of carrying out section 203(b)(8), and there are authorized to be appropriated $3,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991 for the purpose of carrying out section 203(c)(1).

"(c) The Secretary shall ensure that funds appropriated pursuant to authorizations in this Act shall remain available until expended for the purposes for which they were appropriated.".

SEC. 202. AMENDMENTS TO CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978 RELATING TO ADOPTION ASSISTANCE AND SERVICES.

(a) MINORITY CHILDREN PLACEMENTS.—Section 203(b) of title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 is amended by—

42 USC 5113.

(1) striking the "and" at the end of paragraph (6);

(2) striking the period at the end of paragraph (7) and inserting "; and"; and

(3) adding the following new paragraph:

Grants.
Contracts.

"(8) provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups and community-based organizations with experience in working with minority populations) for the provision of programs aimed at increasing the number of minority children (who are in foster care and have the goal of adoption) placed in adoptive families, with a special emphasis on recruitment of minority families—

"(A) which may include such activities as—

"(i) outreach, public education, or media campaigns to inform the public of the needs and numbers of such children;

form and manner determined to be appropriate by the Secretary. Each application shall include verification of the placements described in paragraph (1).

"(3)(A) Payments under this subsection shall begin during fiscal year 1989. Payments under this section during any fiscal year shall not exceed $1,000,000. No payment may be made under this subsection unless an amount in excess of $5,000,000 is appropriated for such fiscal year under section 205(a).

"(B) Any payment made to a State under this subsection which is not used by such State for the purpose provided in paragraph (1) during the fiscal year payment is made shall revert to the Secretary on October 1st of the next fiscal year and shall be used to carry out the purposes of this Act.".

TITLE III—FAMILY VIOLENCE PREVENTION AND SERVICES ACT

SEC. 301. AUTHORIZATION FOR FAMILY VIOLENCE PREVENTION AND SERVICES ACT.

42 USC 10409.

(a) AUTHORIZATION.—Section 310(a) of the Family Violence Prevention and Services Act is amended by—

(1) striking "and" the first place it appears and inserting a comma; and

(2) by striking out the period at the end and inserting in lieu thereof the following: ", $26,000,000 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991.".

(b) LIMITATION ON FUNDS AVAILABLE.—Section 310 of such Act is amended by adding at the end thereof the following:

"(c) The Secretary shall ensure that funds appropriated pursuant to authorizations in this Act shall remain available until expended for the purposes for which they were appropriated.".

SEC. 302. REMOVAL OF THREE-YEAR LIMIT ON GRANTS FOR SHELTERS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by striking out the second sentence.

SEC. 303. AMENDMENTS TO FAMILY VIOLENCE PREVENTION AND SERVICES ACT.

(a) TECHNICAL AMENDMENT.—The Family Violence Prevention and Services Act is amended by striking out section 312 the first time such section appears in such Act (Public Law 98-457; 42 U.S.C. 10411).

102 STAT. 125

42 USC 10410.

(b) INFORMATION AND TRAINING GRANTS.—Section 311(b) of the Family Violence Prevention and Services Act is amended by inserting at the end thereof the following:

"(2)(A) The Secretary shall award grants or contracts to local law enforcement agencies, acting in coordination with domestic violence shelters, social service agencies and hospitals, for the purposes of—

Contracts.

"(i) the development of materials, to be provided to each abused family member at the time such spouse is identified by law enforcement officers, hospital personnel, social services personnel, education counseling personnel, and other appropriate personnel involved in the identification of family violence cases that include—

"(I) an explanation in basic terms of—

"(aa) the rights of the abused family member under the laws of the jurisdiction involved; and

"(bb) the services available to the abused family member, including intervention, treatment, and support services; and

"(II) phone numbers and addresses for the services described in subparagraph (A)(ii);

"(ii) the development of procedures whereby domestic violence shelter, hospital, social service, or law enforcement personnel provide to an abused family member a written report, relating to each incidence of physical abuse reported by the family member, that includes a description of physical injuries to the family member observed by such personnel; and

"(iii) the development of systems whereby domestic violence shelter or local social service personnel, with the consent of the abused family member involved, may obtain from local law enforcement personnel information relating to abuse of such family member, including a report describing the initial contact of such family member and the law enforcement agency.

"(B) The Secretary shall provide assurances that procedures will be developed under this paragraph to guarantee the confidentiality of the records maintained.". Confidential information.

(c) FAMILY VIOLENCE PREVENTION PROJECT.—The Family Violence Prevention and Services Act is amended by adding at the end the following new section:

"FAMILY MEMBER ABUSE INFORMATION AND DOCUMENTATION PROJECT

"SEC. 313. The Secretary shall, directly or by grant or contract— 42 USC 10413. Grants. Contracts.

"(1) develop data on the individual characteristics relating to family violence;

"(2) provide for the objective documentation of data on the victims of family violence and their dependents based on injuries that are brought to the attention of domestic violence shelter, hospital, social service, or law enforcement personnel, whether or not formal civil or criminal action is taken; and Records.

"(3) provide assurances that procedures will be developed to guarantee the confidentiality of records pertaining to any individual for whom data are compiled through this subsection.". Confidential information.

102 STAT. 126

TITLE IV—ADMINISTRATIVE PROVISIONS

SEC. 401. REGULATIONS. 42 USC 5101 note.

(a) For any rule or regulation needed to implement this Act, the Secretary of Health and Human Services shall—

(1) publish proposed regulations for purposes of implementing the amendments made by this Act before the expiration of the 90-day period beginning on the date of the enactment of this Act;

(2) allow not less than 45 days for public comment on such proposed regulations; and

(3) publish final regulations for purposes of implementing the amendments made by this Act before the end of the 195-day period beginning on the date of the enactment of this Act.

Approved April 25, 1988.

LEGISLATIVE HISTORY—H.R. 1900 (S. 1663):

HOUSE REPORTS: No. 100-135 (Comm. on Education and Labor) and No. 100-543 (Comm. of Conference).

SENATE REPORTS: No. 100-210 accompanying S. 1663 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 133 (1987): June 8, considered and passed House.
Nov. 3, considered and passed Senate, amended, in lieu of S. 1663.

Vol. 134 (1988): Mar. 30, Senate agreed to conference report.
Apr. 12, House agreed to conference report.

102 STAT. 437 Public Law 100-300
100th Congress

An Act

Apr. 29, 1988
[H.R. 3971]

To establish procedures to implement the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

International Child Abduction Remedies Act. 42 USC 11601 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Child Abduction Remedies Act".

42 USC 11601.

SEC. 2. FINDINGS AND DECLARATIONS.

(a) FINDINGS.—The Congress makes the following findings:

(1) The international abduction or wrongful retention of children is harmful to their well-being.

(2) Persons should not be permitted to obtain custody of children by virtue of their wrongful removal or retention.

(3) International abductions and retentions of children are increasing, and only concerted cooperation pursuant to an international agreement can effectively combat this problem.

(4) The Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, establishes legal rights and procedures for the prompt return of children who have been wrongfully removed or retained, as well as for securing the exercise of visitation rights. Children who are wrongfully removed or retained within the meaning of the Convention are to be promptly returned unless one of the narrow exceptions set forth in the Convention applies. The Convention provides a sound treaty framework to help resolve the problem of international abduction and retention of children and will deter such wrongful removals and retentions.

(b) DECLARATIONS.—The Congress makes the following declarations:

(1) It is the purpose of this Act to establish procedures for the implementation of the Convention in the United States.

(2) The provisions of this Act are in addition to and not in lieu of the provisions of the Convention.

(3) In enacting this Act the Congress recognizes—

(A) the international character of the Convention; and

(B) the need for uniform international interpretation of the Convention.

(4) The Convention and this Act empower courts in the United States to determine only rights under the Convention and not the merits of any underlying child custody claims.

42 USC 11602.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

102 STAT. 438

(1) the term "applicant" means any person who, pursuant to the Convention, files an application with the United States Central Authority or a Central Authority of any other party to the Convention for the return of a child alleged to have been wrongfully removed or retained or for arrangements for organizing or securing the effective exercise of rights of access pursuant to the Convention;

(2) the term "Convention" means the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980;

(3) the term "Parent Locator Service" means the service established by the Secretary of Health and Human Services under section 453 of the Social Security Act (42 U.S.C. 653);

(4) the term "petitioner" means any person who, in accordance with this Act, files a petition in court seeking relief under the Convention;

(5) the term "person" includes any individual, institution, or other legal entity or body;

(6) the term "respondent" means any person against whose interests a petition is filed in court, in accordance with this Act, which seeks relief under the Convention;

(7) the term "rights of access" means visitation rights;

(8) the term "State" means any of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

(9) the term "United States Central Authority" means the agency of the Federal Government designated by the President under section 7(a).

SEC. 4. JUDICIAL REMEDIES. 42 USC 11603.

(a) JURISDICTION OF THE COURTS.—The courts of the States and the United States district courts shall have concurrent original jurisdiction of actions arising under the Convention.

(b) PETITIONS.—Any person seeking to initiate judicial proceedings under the Convention for the return of a child or for arrangements for organizing or securing the effective exercise of rights of access to a child may do so by commencing a civil action by filing a petition for the relief sought in any court which has jurisdiction of such action and which is authorized to exercise its jurisdiction in the place where the child is located at the time the petition is filed.

(c) NOTICE.—Notice of an action brought under subsection (b) shall be given in accordance with the applicable law governing notice in interstate child custody proceedings.

(d) DETERMINATION OF CASE.—The court in which an action is brought under subsection (b) shall decide the case in accordance with the Convention.

(e) BURDENS OF PROOF.—(1) A petitioner in an action brought under subsection (b) shall establish by a preponderance of the evidence—

(A) in the case of an action for the return of a child, that the child has been wrongfully removed or retained within the meaning of the Convention; and

(B) in the case of an action for arrangements for organizing or securing the effective exercise of rights of access, that the petitioner has such rights.

(2) In the case of an action for the return of a child, a respondent who opposes the return of the child has the burden of establishing—

(A) by clear and convincing evidence that one of the exceptions set forth in article 13b or 20 of the Convention applies; and 102 STAT. 439

(B) by a preponderance of the evidence that any other exception set forth in article 12 or 13 of the Convention applies.

(f) APPLICATION OF THE CONVENTION.—For purposes of any action brought under this Act—

(1) the term "authorities", as used in article 15 of the Convention to refer to the authorities of the state of the habitual residence of a child, includes courts and appropriate government agencies;

(2) the terms "wrongful removal or retention" and "wrongfully removed or retained", as used in the Convention, include a removal or retention of a child before the entry of a custody order regarding that child; and

(3) the term "commencement of proceedings", as used in article 12 of the Convention, means, with respect to the return of a child located in the United States, the filing of a petition in accordance with subsection (b) of this section.

(g) FULL FAITH AND CREDIT.—Full faith and credit shall be accorded by the courts of the States and the courts of the United States to the judgment of any other such court ordering or denying the return of a child, pursuant to the Convention, in an action brought under this Act.

(h) REMEDIES UNDER THE CONVENTION NOT EXCLUSIVE.—The remedies established by the Convention and this Act shall be in addition to remedies available under other laws or international agreements.

"(ii) recruitment of prospective adoptive families for such children; 102 STAT. 123

"(iii) expediting, where appropriate, the legal availability of such children;

"(iv) expediting, where appropriate, the agency assessment of prospective adoptive families identified for such children;

"(v) formation of prospective adoptive family support groups;

"(vi) training of personnel of—

"(I) public agencies;

"(II) private nonprofit child welfare and adoption agencies that are licensed by the State; and

"(III) adoptive parents organizations and community-based organizations with experience in working with minority populations;

"(vii) use of volunteers and adoptive parent groups; and

"(viii) any other activities determined by the Secretary to further the purposes of this Act; and

"(B) shall be subject to the condition that such grants or contracts may be renewed if documentation is provided to the Secretary demonstrating that appropriate and sufficient placements of such children have occurred during the previous funding period.".

(b) POST LEGAL ADOPTION SERVICES.—Section 203 is amended by adding the following new subsection: 42 USC 5113.

"(c)(1) The Secretary shall provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups) for the provision of post legal adoption services for families who have adopted special needs children. Grants. Contracts.

"(2) Services provided under grants made under this subsection shall supplement, not supplant, services from any other funds available for the same general purposes, including—

"(A) individual counseling;

"(B) group counseling;

"(C) family counseling;

"(D) case management;

"(E) training public agency adoption personnel, personnel of private, nonprofit child welfare and adoption agencies licensed by the State to provide adoption services, mental health services professionals, and other support personnel to provide services under this subsection;

"(F) assistance to adoptive parent organizations; and

"(G) assistance to support groups for adoptive parents, adopted children, and siblings of adopted children.

(c) PLACEMENT OF FOSTER CARE CHILDREN.—Section 203, as amended by subsection (b), is amended by adding the following new subsection:

"(d)(1) The Secretary shall make grants for improving State efforts to increase the placement of foster care children legally free for adoption, according to a pre-established plan and goals for improvement. Grants funded by this section must include a strong evaluation component which outlines the innovations used to improve the placement of special needs children who are legally free for adoption, and the successes and failures of the initiative. The evaluations will be submitted to the Secretary who will compile the results of projects funded by this section and submit a report to the appropriate committees of Congress. The emphasis of this program must focus on the improvement of the placement rate—not the aggregate number of special needs children placed in permanent homes. The Secretary, when reviewing grant applications shall give priority to grantees who propose improvements designed to continue in the absence of Federal funds. Grants. Reports. 102 STAT. 124 Contracts.

"(2) Each State entering into an agreement under this subsection shall submit an application to the Secretary for each fiscal year in a

42 USC 11604.

SEC. 5. PROVISIONAL REMEDIES.

(a) AUTHORITY OF COURTS.—In furtherance of the objectives of article 7(b) and other provisions of the Convention, and subject to the provisions of subsection (b) of this section, any court exercising jurisdiction of an action brought under section 4(b) of this Act may take or cause to be taken measures under Federal or State law, as appropriate, to protect the well-being of the child involved or to prevent the child's further removal or concealment before the final disposition of the petition.

(b) LIMITATION ON AUTHORITY.—No court exercising jurisdiction of an action brought under section 4(b) may, under subsection (a) of this section, order a child removed from a person having physical control of the child unless the applicable requirements of State law are satisfied.

42 USC 11605.

SEC. 6. ADMISSIBILITY OF DOCUMENTS.

With respect to any application to the United States Central Authority, or any petition to a court under section 4, which seeks relief under the Convention, or any other documents or information included with such application or petition or provided after such submission which relates to the application or petition, as the case may be, no authentication of such application, petition, document, or information shall be required in order for the application, petition, document, or information to be admissible in court.

42 USC 11606.

SEC. 7. UNITED STATES CENTRAL AUTHORITY.

President of U.S.

(a) DESIGNATION.—The President shall designate a Federal agency to serve as the Central Authority for the United States under the Convention.

(b) FUNCTIONS.—The functions of the United States Central Authority are those ascribed to the Central Authority by the

102 STAT. 440

Convention and this Act.

(c) REGULATORY AUTHORITY.—The United States Central Authority is authorized to issue such regulations as may be necessary to carry out its functions under the Convention and this Act.

(d) OBTAINING INFORMATION FROM PARENT LOCATOR SERVICE.—The United States Central Authority may, to the extent authorized by the Social Security Act, obtain information from the Parent Locator Service.

State and local governments. 42 USC 11607.

SEC. 8. COSTS AND FEES.

(a) ADMINISTRATIVE COSTS.—No department, agency, or instrumentality of the Federal Government or of any State or local government may impose on an applicant any fee in relation to the administrative processing of applications submitted under the Convention.

(b) COSTS INCURRED IN CIVIL ACTIONS.—(1) Petitioners may be required to bear the costs of legal counsel or advisors, court costs incurred in connection with their petitions, and travel costs for the return of the child involved and any accompanying persons, except as provided in paragraphs (2) and (3).

(2) Subject to paragraph (3), legal fees or court costs incurred in connection with an action brought under section 4 shall be borne by the petitioner unless they are covered by payments from Federal, State, or local legal assistance or other programs.

(3) Any court ordering the return of a child pursuant to an action brought under section 4 shall order the respondent to pay necessary expenses incurred by or on behalf of the petitioner, including court costs, legal fees, foster home or other care during the course of proceedings in the action, and transportation costs related to the return of the child, unless the respondent establishes that such order would be clearly inappropriate.

State and local governments. 42 USC 11608.

SEC. 9. COLLECTION, MAINTENANCE, AND DISSEMINATION OF INFORMATION.

(a) IN GENERAL.—In performing its functions under the Convention, the United States Central Authority may, under such condi-

tions as the Central Authority prescribes by regulation, but subject to subsection (c), receive from or transmit to any department, agency, or instrumentality of the Federal Government or of any State or foreign government, and receive from or transmit to any applicant, petitioner, or respondent, information necessary to locate a child or for the purpose of otherwise implementing the Convention with respect to a child, except that the United States Central Authority—

(1) may receive such information from a Federal or State department, agency, or instrumentality only pursuant to applicable Federal and State statutes; and

(2) may transmit any information received under this subsection notwithstanding any provision of law other than this Act.

(b) REQUESTS FOR INFORMATION.—Requests for information under this section shall be submitted in such manner and form as the United States Central Authority may prescribe by regulation and shall be accompanied or supported by such documents as the United States Central Authority may require.

(c) RESPONSIBILITY OF GOVERNMENT ENTITIES.—Whenever any department, agency, or instrumentality of the United States or of any State receives a request from the United States Central Authority for information authorized to be provided to such Central 102 STAT. 441
Authority under subsection (a), the head of such department, agency, or instrumentality shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality in order to determine whether the information requested is contained in any such files or records. If such search discloses the information requested, the head of such department, agency, or instrumentality shall immediately transmit such information to the United States Central Authority, except that any such information the disclosure of which— Classified information.

(1) would adversely affect the national security interests of the United States or the law enforcement interests of the United States or of any State; or Defense and national security. Law enforcement and crime.

(2) would be prohibited by section 9 of title 13, United States Code;

shall not be transmitted to the Central Authority. The head of such department, agency, or instrumentality shall, immediately upon completion of the requested search, notify the Central Authority of the results of the search, and whether an exception set forth in paragraph (1) or (2) applies. In the event that the United States Central Authority receives information and the appropriate Federal or State department, agency, or instrumentality thereafter notifies the Central Authority that an exception set forth in paragraph (1) or (2) applies to that information, the Central Authority may not disclose that information under subsection (a).

(d) INFORMATION AVAILABLE FROM PARENT LOCATOR SERVICE.—To the extent that information which the United States Central Authority is authorized to obtain under the provisions of subsection (c) can be obtained through the Parent Locator Service, the United States Central Authority shall first seek to obtain such information from the Parent Locator Service, before requesting such information directly under the provisions of subsection (c) of this section.

(e) RECORDKEEPING.—The United States Central Authority shall maintain appropriate records concerning its activities and the disposition of cases brought to its attention.

SEC. 10. INTERAGENCY COORDINATING GROUP. 42 USC 11609.

The Secretary of State, the Secretary of Health and Human Services, and the Attorney General shall designate Federal employees and may, from time to time, designate private citizens to serve on an interagency coordinating group to monitor the operation of the Convention and to provide advice on its implementation to the United States Central Authority and other Federal agencies. This group shall meet from time to time at the request of the United States Central Authority. The agency in which the United States Government organization and employees.

Central Authority is located is authorized to reimburse such private citizens for travel and other expenses incurred in participating at meetings of the interagency coordinating group at rates not to exceed those authorized under subchapter I of chapter 57 of title 5, United States Code, for employees of agencies.

SEC. 11. AGREEMENT FOR USE OF PARENT LOCATOR SERVICE IN DETERMINING WHEREABOUTS OF PARENT OR CHILD.

Section 463 of the Social Security Act (42 U.S.C. 663) is amended—

(1) by striking "under this section" in subsection (b) and inserting "under subsection (a)";

102 STAT. 442

(2) by striking "under this section" where it first appears in subsection (c) and inserting "under subsection (a), (b), or (e)"; and

(3) by adding at the end the following new subsection:

Contracts.

"(e) The Secretary shall enter into an agreement with the Central Authority designated by the President in accordance with section 7 of the International Child Abduction Remedies Act, under which the services of the Parent Locator Service established under section 453 shall be made available to such Central Authority upon its request for the purpose of locating any parent or child on behalf of an applicant to such Central Authority within the meaning of section 3(1) of that Act. The Parent Locator Service shall charge no fees for services requested pursuant to this subsection.".

42 USC 11610.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of the Convention and this Act.

Approved April 29, 1988.

LEGISLATIVE HISTORY—H.R. 3971:

HOUSE REPORTS: No. 100-525 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 28, considered and passed House.
Apr. 12, considered and passed Senate, amended.
Apr. 25, House concurred in Senate amendment.

102 STAT. 919

Public Law 100-386
100th Congress

An Act

Aug. 10, 1988
[S. 2385]

To amend the Public Health Service Act to revise and extend the programs establishing migrant health centers and community health centers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Community and Migrant Health Centers Amendments of 1988.
42 USC 201 note.

SECTION 1. SHORT TITLE, REFERENCE TO ACT.

(a) SHORT TITLE.—This Act may be cited as the "Community and Migrant Health Centers Amendments of 1988".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 2. MIGRANT HEALTH CENTERS.

(a) ADDITION OF PATIENT CASE MANAGEMENT SERVICES TO LIST OF PROVIDED SERVICES.—Section 329(a)(1) (42 U.S.C. 254b(a)(1)) is amended—

(1) by striking "and " at the end of subparagraph (F) and inserting "and" at the end of subparagraph (G); and

(2) by inserting after subparagraph (G) the following new subparagraph:

"(H) patient case management services (including outreach, counseling, referral, and follow-up services),".

(b) ADDITION OF APPROPRIATE HEALTH NEEDS TO LIST OF SUPPLEMENTAL HEALTH SERVICES.—Section 329(a)(7) (42 U.S.C. 254b(a)(7)) is amended—

(1) by striking "and " at the end of subparagraph (K);

(2) by striking the period at the end of subparagraph (L) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(M) other services appropriate to meet the health needs of the population served by the migrant health center involved.".

(c) PROCEDURES FOR ALTERATION OF DETERMINATION OF HIGH IMPACT AREA.—Section 329(d)(1)(A) (42 U.S.C. 254b(d)(1)(A)) is amended—

(1) by inserting "(i)" after "(A)"; and

(2) by adding at the end the following new clause:

"(ii) If the Secretary makes a determination that an area is a high impact area, the Secretary may alter the determination only after providing to the grantee under subclause (i) for the area, and to other interested entities in the area, reasonable notice with respect to such determination and a reasonable opportunity to offer information with respect to such determination.".

(d) REQUIREMENT OF FEES CONSISTENT WITH LOCALLY PREVAILING RATES.—Section 329(f)(3)(F)(i) (42 U.S.C. 254b(f)(3)(F)(i)) is amended—

(1) by inserting after "provision of its services" the following: "consistent with locally prevailing rates or charges and"; and

(2) by inserting "has prepared" after "operation and".

102 STAT. 920

(e) AUTHORITY WITH RESPECT TO EXPANSION AND CONSTRUCTION OF CENTERS.—

(1) Section 329 (42 U.S.C. 254b) is amended—

(A) in the second sentence of subsection (c)(1)(A), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings and construction of new buildings";

(B) in the matter after and below subsection (c)(1)(B)(iv), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(C) in the matter after and below subsection (d)(1)(B)(iv), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(D) in the matter after and below subsection (d)(1)(C)(iii), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(E) in subsection (d)(2), by striking "acquiring and modernizing existing buildings" and inserting "acquiring, expanding, and modernizing existing buildings and constructing new buildings"; and

(F) in subsection (d)(4)(B)(ii)(III), by striking "construct and modernize" and inserting "construct, expand, and modernize".

(2) Section 329(f) (42 U.S.C. 254b(f)) is amended by adding at the end the following:

"(7) The Secretary may make a grant under subsection (c) or (d) for the construction of new buildings for a migrant health center or a migrant health program only if the Secretary determines that appropriate facilities are not available through acquiring, modernizing, or expanding existing buildings and that the entity to which the

Grants.

grant will be made has made reasonable efforts to secure from other sources funds, in lieu of the grant, to construct such facilities.".

(f) AMOUNT OF GRANTS FOR COSTS OF OPERATION.—

(1) Section 329(d)(4)(A)(i) (42 U.S.C. 254b(d)(4)(A)(i)) is amended to read as follows:

"(i) State, local, and other operational funding, and".

(2) Section 329(d)(4)(B) (42 U.S.C. 254b(d)(4)(B)) is amended by striking out "may retain such an amount (equal to not less than one-half of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center" in the matter immediately following clause (ii) and inserting in lieu thereof "shall be entitled to retain the additional amount of fees, premiums, and other third party reimbursements as the center will use".

(g) ADMINISTRATION OF PROGRAMS.—Section 329 (42 U.S.C. 254b) is amended by adding at the end the following:

Grants.
Contracts.

"(i) The Secretary may delegate the authority to administer the programs authorized by this section to any office within the Service, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the central office of the Health Resources and Services Administration.".

102 STAT. 921

Grants.

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 329(h) (42 U.S.C. 254b(h)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) For the purposes of subsections (c) through (e), there are authorized to be appropriated $48,500,000 for fiscal year 1989 and such sums as may be necessary for fiscal years 1990 and 1991.

Contracts.

"(B) Of the amounts appropriated pursuant to subparagraph (A) for a fiscal year, the Secretary may obligate for grants and contracts under subsection (c)(1) not more than 2 percent, for grants under subsection (d)(1)(C) not more than 5 percent, and for contracts under subsection (e) not more than 10 percent."; and

(2) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2)(A) For the purpose of carrying out subparagraph (B), there are authorized to be appropriated $1,500,000 for fiscal year 1989, $2,000,000 for fiscal year 1990, and $2,500,000 for fiscal year 1991.

Children and youth.

"(B) The Secretary may make grants to migrant health centers to assist such centers in—

"(i) providing services for the reduction of the incidence of infant mortality; and

Women.

"(ii) developing and coordinating referral arrangements between migrant health centers and other entities for the health management of infants and pregnant women.

Children and youth.

"(C) In making grants under subparagraph (B), the Secretary shall give priority to migrant health centers providing services in any catchment area in which there is a substantial incidence of infant mortality or in which there is a significant increase in the incidence of infant mortality.".

SEC. 3. COMMUNITY HEALTH CENTERS.

(a) ADDITION OF PATIENT CASE MANAGEMENT SERVICES TO LIST OF PROVIDED SERVICES.—Section 330(a)(1) (42 U.S.C. 254c(a)(1)) is amended—

(1) by striking "and" at the end of paragraph (4) and inserting "and" at the end of paragraph (5); and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) patient case management services (including outreach, counseling, referral, and follow-up services),".

(b) ADDITION OF APPROPRIATE HEALTH NEEDS TO LIST OF SUPPLEMENTAL HEALTH SERVICES.—Section 330(b)(2) (42 U.S.C. 254c(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (L);

(2) by striking the period at the end of subparagraph (M) and inserting "; and"; and

(3) by adding at the end the following new subparagraph: Disadvantaged persons.

"(N) other services appropriate to meet the health needs of the medically underserved population served by the community health center involved.".

(c) REQUIREMENT OF NOTICE AND COMMENT WITH RESPECT TO REGULATIONS ON MEDICALLY UNDERSERVED POPULATIONS.—Section 330(b)(4) (42 U.S.C. 254c(b)(4)) is amended by inserting after and below subparagraph (B) the following:

102 STAT. 922

"The Secretary may modify the criteria established in regulations issued under this paragraph only after affording public notice and an opportunity for comment on any such proposed modifications.".

(d) REQUIREMENT OF FEES CONSISTENT WITH LOCALLY PREVAILING RATES.—Section 330(e)(3)(F)(i) (42 U.S.C. 254c(e)(3)(F)(i)) is amended—

(1) by inserting after "provision of its services" the following: "consistent with locally prevailing rates or charges and"; and

(2) by inserting "has prepared" after "operation and".

(e) AUTHORITY WITH RESPECT TO EXPANSION AND CONSTRUCTION OF CENTERS.—

(1) Section 330 (42 U.S.C. 254c) is amended—

(A) in the second sentence of subsection (c)(1), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings and construction of new buildings";

(B) in the matter after and below subsection (d)(1)(C)(iii), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(C) in subsection (d)(2), by striking "acquiring and modernizing existing buildings" and inserting "acquiring, expanding, and modernizing existing buildings and constructing new buildings"; and

(D) in subsection (d)(4)(B)(ii)(III), by striking "construct and modernize" and inserting "construct, expand, and modernize".

(2) Section 330(e) (42 U.S.C. 254c(e)) is amended by adding at the end the following:

"(6) The Secretary may make a grant under subsection (c) or (d) for the construction of new buildings for a community health center only if the Secretary determines that appropriate facilities are not available through acquiring, modernizing, or expanding existing buildings and that the entity to which the grant will be made has made reasonable efforts to secure from other sources funds, in lieu of the grant, to construct such facilities." Grants.

(f) AMOUNT OF GRANTS FOR COSTS OF OPERATION.—

(1) Section 330(d)(4)(A)(i) (42 U.S.C. 254c(d)(4)(A)(i)) is amended to read as follows:

"(i) State, local, and other operational funding, and".

(2) Section 330(d)(4)(B) (42 U.S.C. 254c(d)(4)(B)) is amended by striking out "may retain such an amount (equal to not less than one-half of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center" in the matter immediately following clause (ii) and inserting in lieu thereof "shall be entitled to retain the additional amount of fees, premiums, and other third party reimbursements as the center will use".

(g) ADMINISTRATION OF PROGRAMS.—Section 330 (42 U.S.C. 254c) is amended by adding at the end the following:

Grants. Contracts.

"(j) The Secretary may delegate the authority to administer the programs authorized by this section to any office within the Service, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the central office of the Health Resources and Services Administration.".

102 STAT. 923

Grants.

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 330(g) (42 U.S.C. 254c(g)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) For the purpose of payments under grants under this section, there are authorized to be appropriated $440,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal years 1990 and 1991.";

(2)(A) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(B) by redesignating paragraph (2) as subparagraph (B);

(C) in paragraph (1)(B)(i) (as so redesignated), by striking "this section" and inserting "paragraph (1)"; and

(D) in paragraph (1)(B)(ii) (as so redesignated), by striking "this section" and inserting "paragraph (1)"; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2)(A) For the purpose of carrying out subparagraph (B), there are authorized to be appropriated $25,000,000 for fiscal year 1989, $30,000,000 for fiscal year 1990, and $35,000,000 for fiscal year 1991.

Children and youth.

"(B) The Secretary may make grants to community health centers to assist such centers in—

"(i) providing services for the reduction of the incidence of infant mortality; and

Women.

"(ii) developing and coordinating referral arrangements between community health centers and other entities for the health management of infants and pregnant women.

Disadvantaged persons. Children and youth.

"(C) In making grants under subparagraph (B), the Secretary shall give priority to community health centers providing services to any medically underserved population among which there is a substantial incidence of infant mortality or among which there is a significant increase in the incidence of infant mortality.".

SEC. 4. REQUIREMENT WITH RESPECT TO FRONTIER AREAS.

Section 330 (42 U.S.C. 254c) is amended by adding at the end the following new subsection:

Grants.

"(j) In making grants under this section, the Secretary shall give special consideration to the unique needs of frontier areas.".

42 USC 254b note.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

Approved August 10, 1988.

LEGISLATIVE HISTORY—S. 2385 (H.R. 4503):

HOUSE REPORTS: No. 100-719 accompanying H.R. 4503 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-343 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 13, considered and passed Senate.
June 27, 28, H.R. 4503 considered and passed House.
July 12, S. 2385 considered and passed House, amended, in lieu of H.R. 4503.
July 29, Senate concurred in House amendment with an amendment.
Aug. 1, House concurred in Senate amendment.

Public Law 100-471
100th Congress

102 STAT. 2284

An Act

To provide for the awarding of grants for the purchase of drugs used in the treatment of AIDS.

Oct. 4, 1988
[S. 2846]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTS FOR TREATMENT DRUGS FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 314 the following new section:

"SEC. 315. GRANTS FOR TREATMENT DRUGS FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

42 USC 247.

"(a) AUTHORITY.—The Secretary, may make grants to the States for the purpose of assisting grantees in the provision of drugs determined to prolong the life of individuals found to have acquired immune deficiency syndrome and related conditions.

State and local governments.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there is authorized to be appropriated $15,000,000.

"(c) PERIOD FOR GRANTS.—No grant may be made under this section after March 31, 1989.

Termination date.

"(d) REPEALER.—This section shall cease to exist on March 31, 1989.".

Termination date.

Approved October 4, 1988.

LEGISLATIVE HISTORY—S. 2846:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 29, considered and passed Senate.
Sept. 30, considered and passed House.

Public Law 100-485
100th Congress

102 STAT. 2343

An Act

To revise the AFDC program to emphasize work, child support, and family benefits, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives.

Oct. 13, 1988
[H.R. 1720]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

Family Support Act of 1988.
State and local governments.
42 USC 1305 note.

(a) SHORT TITLE.—This Act may be cited as the "Family Support Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

SUBTITLE A—CHILD SUPPORT

Sec. 101. Immediate income withholding.
Sec. 102. Disregard applicable to timely child support payments.
Sec. 103. State guidelines for child support award amounts.
Sec. 104. Timing of notice of support payment collections.

SUBTITLE B—ESTABLISHMENT OF PATERNITY

Sec. 111. Performance standards for State paternity establishment programs
Sec. 112. Increased Federal assistance for paternity establishment.

SUBTITLE C—IMPROVED PROCEDURES FOR CHILD SUPPORT ENFORCEMENT AND ESTABLISHMENT OF PATERNITY

Sec. 121. Requirement of prompt State response to requests for child support assistance.
Sec. 122. Requirement of prompt State distribution of amounts collected as child support.
Sec. 123. Automated tracking and monitoring systems made mandatory.
Sec. 124. Additional information source for parent locator service.
Sec. 125. Use of social security number to establish identity of parents.
Sec. 126. Commission on Interstate Child Support.
Sec. 127. Costs of interstate enforcement demonstrations excluded in computing incentive payments.
Sec. 128. Study of child-rearing costs.
Sec. 129. Collection and reporting of child support enforcement data.

TITLE II—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

Sec. 201. Establishment and operation of program.
Sec. 202. Technical and conforming amendments.
Sec. 203. Regulations; performance standards; studies.
Sec. 204. Effective date.

TITLE III—SUPPORTIVE SERVICES FOR FAMILIES

Sec. 301. Child care during participation in education, employment, and training
Sec. 302. Extended eligibility for child care.
Sec. 303. Extended eligibility for medical assistance.
Sec. 304. Effective dates

102 STAT. 2344

TITLE IV—RELATED AFDC AMENDMENTS

Sec. 401. Benefits for two-parent families.
Sec. 402. Changes in earned income disregards.
Sec. 403. Households headed by minor parents.
Sec. 404. Periodic reevaluation of need and payment standards.
Sec. 405. CBO study on implementation of national minimum payment standard.
Sec. 406. Study of new national approaches to welfare benefits for low-income families with children.

TITLE V—DEMONSTRATION PROJECTS

Sec. 501. Family support demonstration projects.
Sec. 502. Demonstration projects to test the effect of early childhood development programs.
Sec. 503. Demonstration projects to test alternative definitions of unemployment.
Sec. 504. Demonstration projects to address child access problems.
Sec. 505. Demonstration projects to expand the number of job opportunities available to certain low-income individuals.
Sec. 506. Demonstration projects to provide counseling and services to high-risk teenagers.
Sec. 507. Eighteen-month extension of Minnesota prepaid medicaid demonstration project.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Inclusion of American Samoa as a State under title IV.
Sec. 602. Increase in amount available for payment to Puerto Rico, the Virgin Islands, and Guam.
Sec. 603. Assistant Secretary for Family Support.
Sec. 604. Responsibilities of the State.
Sec. 605. Establishment of preeligibility fraud detection measures.
Sec. 606. Uniform reporting requirements.
Sec. 607. State reports on expenditure and use of social services funds.
Sec. 608. Miscellaneous technical corrections to Medicare Catastrophic Coverage Act of 1988.
Sec. 609. Extension of quality control penalty moratorium.

TITLE VII—FUNDING PROVISIONS

Sec. 701. Temporary extension of provisions relating to collection of nontax debts owed to Federal agencies.
Sec. 702. Limitation on use of reimbursement arrangements to avoid 2-percent floor.

without regard to whether the order is being enforced under the State plan).

"(iii) The requirements of paragraphs (2), (5), (6), (7), (8), (9), and (10) of subsection (b), where applicable.

"(iv) Withholding from income of amounts payable as support must be carried out in full compliance with all procedural due process requirements of the State.".

Reports.
42 USC 666 note.

(c) STUDY ON MAKING IMMEDIATE INCOME WITHHOLDING MANDATORY IN ALL CASES.—The Secretary of Health and Human Services shall conduct a study of the administrative feasibility, cost implications, and other effects of requiring immediate income withholding with respect to all child support awards in a State and shall report on the results of such study not later than 3 years after the date of the enactment of this Act.

102 STAT. 2346

42 USC 666 note.

(d) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall become effective on the first day of the 25th month beginning after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall become effective on January 1, 1994.

(3) Subsection (c) shall become effective on the date of the enactment of this Act.

SEC. 102. DISREGARD APPLICABLE TO TIMELY CHILD SUPPORT PAYMENTS.

42 USC 602.

(a) IN GENERAL.—Section 402(a)(8)(A)(vi) of the Social Security Act is amended by striking "of any child support payments received in such month" and inserting in lieu thereof "of any child support payments for such month received in that month, and the first $50 of child support payments for each prior month received in that month if such payments were made by the absent parent in the month when due,".

42 USC 657.

(b) CONFORMING AMENDMENT.—Section 457(b)(1) of such Act is amended by striking "the first $50 of such amounts as are collected periodically which represent monthly support payments" and inserting in lieu thereof "of such amounts as are collected periodically which represent monthly support payments, the first $50 of any payments for a month received in that month, and the first $50 of payments for each prior month received in that month which were made by the absent parent in the month when due,".

42 USC 602 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the first day of the first calendar quarter which begins after the date of the enactment of this Act.

SEC. 103. STATE GUIDELINES FOR CHILD SUPPORT AWARD AMOUNTS.

(a) GUIDELINES TO CREATE REBUTTABLE PRESUMPTION.—Section 467(b) of the Social Security Act is amended—

42 USC 667.

(1) by inserting "(1)" after "(b)";

(2) by striking ", but need not be binding upon such judges or other officials"; and

(3) by adding at the end the following new paragraph:

Courts, U.S.

"(2) There shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of such guidelines is the correct amount of child support to be awarded.

Records.

A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case, as determined under criteria established by the State, shall be sufficient to rebut the presumption in that case.".

(b) GUIDELINES TO BE REVIEWED EVERY 4 YEARS.—Section 467(a) of such Act is amended by inserting ", and shall be reviewed at least once every 4 years to ensure that their application results in the determination of appropriate child support award amounts" after "action".

(c) STATE LAW REQUIREMENTS FOR REVIEW OF INDIVIDUAL AWARDS.—Section 466(a) of such Act is amended by inserting after paragraph (9) the following new paragraph:

42 USC 666.

"(10)(A) Procedures to ensure that, beginning 2 years after the date of the enactment of this paragraph, if the State determines (pursuant to a plan indicating how and when child support orders in effect in the State are to be periodically reviewed and adjusted) that a child support order being enforced under this part should be reviewed, the State must, at the request of either parent subject to the order, or of a State child support enforcement agency, initiate a review of such order, and adjust such order, as appropriate, in accordance with the guidelines established pursuant to section 467(a). Effective date.

102 STAT. 2347

"(B) Procedures to ensure that, beginning 5 years after the date of the enactment of this paragraph or such earlier date as the State may select, the State must implement a process for the periodic review and adjustment of child support orders being enforced under this part under which the order is to be reviewed not later than 36 months after the establishment of the order or the most recent review, and adjusted, as appropriate, in accordance with the guidelines established pursuant to section 467(a), unless— Effective date.

"(i) in the case of an order with respect to an individual with respect to whom an assignment under section 402(a)(26) is in effect, the State has determined, in accordance with regulations of the Secretary, that such a review would not be in the best interests of the child and neither parent has requested review; and

"(ii) in the case of any other order being enforced under this part, neither parent has requested review.

"(C) Procedures to ensure that the State notifies each parent subject to a child support order in effect in the State that is being enforced under this part—

"(i) of any review of such order, at least 30 days before the commencement of such review; and

"(ii) of the right of such parent under subparagraph (B) to request the State to review such order; and

"(iii) of a proposed adjustment (or determination that there should be no change) in the child support award amount, and such parent is afforded not less than 30 days after such notification to initiate proceedings to challenge such adjustment (or determination).".

(d) STUDY OF IMPACT OF EXTENDING PERIODIC REVIEW REQUIREMENT TO ALL OTHER CASES.—Within 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct and complete a study to determine the impact on child support awards and the courts of requiring each State to periodically review all child support orders in effect in the State. 42 USC 666 note.

(e) DEMONSTRATION PROJECTS FOR EVALUATING MODEL PROCEDURES FOR REVIEWING CHILD SUPPORT AWARDS.—(1) Not later than April 1, 1989, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall enter into an agreement with each of 4 States submitting applications under this subsection for the purpose of conducting a demonstration project under part D of title IV of the Social Security Act in the State to test and evaluate model procedures for reviewing child support award amounts. Contracts. 42 USC 666 note.

(2) Notwithstanding section 454(1) of the Social Security Act, a demonstration project conducted under this subsection may be conducted in one or more political subdivisions of the State.

(3) An agreement under this subsection shall be entered into between the Secretary and the State agency designated by the Governor of the State involved. Under such agreement, the Secretary shall pay to the State, as an additional payment under part D of title IV of the Social Security Act, an amount equal to 90 percent of the reasonable costs incurred by the State in conducting a demonstration project under this subsection. Such costs shall not be taken into account for purposes of computing the incentive payment under section 458 of such Act.

102 STAT. 2348

Sec. 703 Modifications to dependent care credit and exclusion for dependent care assistance.
Sec. 704. Taxpayer identification number required for dependents who have attained age 2.

TITLE I—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

Subtitle A—Child Support

SEC. 101. IMMEDIATE INCOME WITHHOLDING.

(a) IN GENERAL.—Section 466(b)(3) of the Social Security Act is amended to read as follows: 42 USC 666.

"(3)(A) The wages of an absent parent shall be subject to such withholding, regardless of whether support payments by such parent are in arrears, in the case of a support order being enforced under this part that is issued or modified on or after the first day of the 25th month beginning after the date of the enactment of this paragraph, on the effective date of the order; except that such wages shall not be subject to such withholding under this subparagraph in any case where (i) one of the parties demonstrates, and the court (or administrative process) finds, that there is good cause not to require immediate income withholding, or (ii) a written agreement is reached between both parties which provides for an alternative arrangement. Effective date. 102 STAT. 2345

"(B) The wages of an absent parent shall become subject to such withholding, in the case of wages not subject to withholding under subparagraph (A), on the date on which the payments which the absent parent has failed to make under a support order are at least equal to the support payable for one month or, if earlier, and without regard to whether there is an arrearage, the earliest of—

"(i) the date as of which the absent parent requests that such withholding begin,

"(ii) the date as of which the custodial parent requests that such withholding begin, if the State determines, in accordance with such procedures and standards as it may establish, that the request should be approved, or

"(iii) such earlier date as the State may select.".

(b) APPLICATION TO ALL CHILD SUPPORT ORDERS.—Section 466(a)(8) of such Act is amended— 42 USC 666.

(1) by inserting "(A)" before "Procedures";

(2) by striking "which are issued or modified in the State" and inserting in lieu thereof "not described in subparagraph (B)"; and

(3) by adding at the end the following new subparagraph:

"(B) Procedures under which all child support orders which are initially issued in the State on or after January 1, 1994, and are not being enforced under this part will include the following requirements: Effective date.

"(i) The wages of an absent parent shall be subject to withholding, regardless of whether support payments by such parent are in arrears, on the effective date of the order, except that such wages shall not be subject to withholding under this clause in any case where (I) one of the parties demonstrates, and the court (or administrative process) finds, that there is good cause not to require immediate income withholding, or (II) a written agreement is reached between both parties which provides for an alternative arrangement.

"(ii) The requirements of subsection (b)(1) (which shall apply in the case of each absent parent against whom a support order is or has been issued or modified in the State,

(4) A demonstration project under this subsection shall be commenced not later than September 30, 1989, and shall be conducted for a 2-year period unless the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the agreement entered into with the State under paragraph (1).

(5)(A) Any State with an agreement under this subsection shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of the project conducted by the State.

Reports. (B) The Secretary shall report the results of the demonstration projects conducted under this subsection to Congress not later than 6 months after all such projects are completed.

42 USC 666 note. (f) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall become effective one year after the date of the enactment of this Act.

SEC. 104. TIMING OF NOTICE OF SUPPORT PAYMENT COLLECTIONS.

42 USC 654. (a) IN GENERAL.—Section 454(5)(A) of the Social Security Act is amended by striking "at least annually" and inserting in lieu thereof "on a monthly basis (or on a quarterly basis for so long as the Secretary determines with respect to a State that requiring such notice on a monthly basis would impose an unreasonable administrative burden)".

42 USC 654 note. (b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the first day of the first calendar quarter which begins 4 or more years after the date of the enactment of this Act.

Subtitle B—Establishment of Paternity

SEC. 111. PERFORMANCE STANDARDS FOR STATE PATERNITY ESTABLISHMENT PROGRAMS.

(a) STANDARDS FOR STATE PROGRAMS.—Section 452 of the Social
42 USC 652. Security Act is amended by adding at the end the following new subsection:

Effective date. "(g)(1) A State's program under this part shall be found, for purposes of section 403(h), not to have complied substantially with the requirements of this part unless, for any fiscal year beginning on or after October 1, 1991, its paternity establishment percentage for such fiscal year equals or exceeds—

"(A) 50 percent;

"(B) the paternity establishment percentage of the State for the fiscal year 1988, increased by the applicable number of percentage points; or

"(C) the paternity establishment percentage determined with respect to all States for such fiscal year.

"(2) For purposes of this section—

"(A) the term 'paternity establishment percentage' means, with respect to a State (or all States, as the case may be) for a fiscal year, the ratio (expressed as a percentage) that the total number of children—

102 STAT. 2349

"(i) who have been born out of wedlock,

"(ii)(I) except as provided in the last sentence of this paragraph, with respect to whom aid is being paid under the State's plan approved under part A (or under all such plans) for such fiscal year, or (II) with respect to whom services are being provided under the State's plan approved under this part (or under all such plans) for the fiscal year pursuant to an application submitted under section 454(6), and

"(iii) the paternity of whom has been established,

bears to the total number of children who have been born out of wedlock and (except as provided in such last sentence) with respect to whom aid is being paid under the State's plan approved under part A (or under all such plans) for such fiscal

year or with respect to whom services are being provided under the State's plan approved under this part (or under all such plans) for the fiscal year pursuant to an application submitted under section 454(6); and

"(B) the applicable number of percentage points means, with respect to a fiscal year (beginning with the fiscal year 1991), 3 percentage points multiplied by the number of fiscal years after the fiscal year 1989 and before the beginning of such fiscal year.

For purposes of subparagraph (A), the total number of children shall not include any child who is a dependent child by reason of the death of a parent or any child with respect to whom an applicant or recipient is found to have good cause for refusing to cooperate under section 402(a)(26).

"(3)(A) The requirements of this subsection are in addition to and shall not supplant any other requirement (that is not inconsistent with such requirements) established in regulations by the Secretary for the purpose of determining (for purposes of section 403(h)) whether the program of a State operated under this part shall be treated as complying substantially with the requirements of this part.

"(B) The Secretary may modify the requirements of this subsection to take into account such additional variables as the Secretary identifies (including the percentage of children born out-of-wedlock in a State) that affect the ability of a State to meet the requirements of this subsection.

"(C) The Secretary shall submit an annual report to the Congress that sets forth the data upon which the paternity establishment percentages for States for a fiscal year are based, lists any additional variables the Secretary has identified under subparagraph (A), and describes State performance in establishing paternity.". Reports.

(b) GENETIC TESTS MAY BE REQUIRED BY CONTESTING PARTY.—Section 466(a)(5) of such Act is amended— 42 USC 666.

(1) by inserting "(A)" after "(5)"; and

(2) by adding at the end the following new subparagraph:

"(B) Procedures under which the State is required (except in cases where the individual involved has been found under section 402(a)(26)(B) to have good cause for refusing to cooperate) to require the child and all other parties, in a contested paternity case, to submit to genetic tests upon the request of any such party.".

(c) STATES MAY CHARGE INDIVIDUALS NOT RECEIVING AFDC FOR COSTS OF GENETIC TESTS TO ESTABLISH PATERNITY.—Section 454(6) of such Act is amended— 42 USC 654.

(1) by redesignating clause (D) as clause (E); and

(2) by inserting "(D) a fee (in accordance with regulations of the Secretary) for performing genetic tests may be imposed on any individual who is not a recipient of aid under a State plan approved under part A," after "section 464(a)(2),".

102 STAT. 2350

(d) ENCOURAGEMENT OF CIVIL PROCESSES.—Part D of title IV of such Act is amended by adding at the end the following new section:

"ENCOURAGEMENT OF STATES TO ADOPT SIMPLE CIVIL PROCESS FOR VOLUNTARILY ACKNOWLEDGING PATERNITY AND A CIVIL PROCEDURE FOR ESTABLISHING PATERNITY IN CONTESTED CASES

"SEC. 468. In the administration of the child support enforcement program under this part, each State is encouraged to establish and implement a simple civil process for voluntarily acknowledging paternity and a civil procedure for establishing paternity in contested cases.". 42 USC 668.

(e) REQUIREMENT TO PERMIT PATERNITY ESTABLISHMENT FOR CHILD UNDER 18.—Section 466(a)(5)(A) of such Act (as so designated by subsection (b) of this section) is amended—

(1) by inserting "(i)" before "(A)"; and

(2) by inserting at the end the following new clause:

"(ii) As of August 16, 1984, the requirement of clause (i) shall also apply to any child for whom paternity has not yet been established Effective date.

and any child for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State.".

42 USC 652 note. (f) EFFECTIVE DATE; IMPLEMENTATION.—(1) The amendments made by subsections (a), (d), and (e) shall become effective on the date of the enactment of this Act.

42 USC 654 note. (2) The amendments made by subsections (b) and (c) shall become effective on the first day of the first month beginning one year or more after the date of the enactment of this Act.

42 USC 652 note. (3) The Secretary of Health and Human Services shall collect the data necessary to implement the requirements of section 452(g) of the Social Security Act (as added by subsection (a) of this section) and may, in carrying out the requirement of determining a State's paternity establishment percentage for the fiscal year 1988, compute such percentage on the basis of data collected with respect to the last quarter of such fiscal year (or, if such data are not available, the first quarter of the fiscal year 1989) if the Secretary determines that data for the full year are not available.

SEC. 112. INCREASED FEDERAL ASSISTANCE FOR PATERNITY ESTABLISHMENT.

(a) INCREASED PAYMENTS TO STATES.—Section 455(a)(1) of the 42 USC 655. Social Security Act is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the semicolon at the end of subparagraph (B) and inserting in lieu thereof ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) equal to 90 percent (rather than the percentage specified in subparagraph (A)) of so much of the sums expended during such quarter as are attributable to laboratory costs incurred in determining paternity;".

42 USC 655 note. (b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to laboratory costs incurred on or after October 1, 1988.

102 STAT. 2351

Subtitle C—Improved Procedures for Child Support Enforcement and Establishment of Paternity

SEC. 121. REQUIREMENT OF PROMPT STATE RESPONSE TO REQUESTS FOR CHILD SUPPORT ASSISTANCE.

(a) IN GENERAL.—Section 452 of the Social Security Act (as amended by section 111(a) of this Act) is further amended by adding at the end the following new subsection:

"(h) The standards required by subsection (a)(1) shall include standards establishing time limits governing the period or periods within which a State must accept and respond to requests (from States, jurisdictions thereof, or individuals who apply for services furnished by the State agency under this part or with respect to whom an assignment under section 402(a)(26) is in effect) for assistance in establishing and enforcing support orders, including requests to locate absent parents, establish paternity, and initiate proceedings to establish and collect child support awards.".

42 USC 652 note. (b) ADVISORY COMMITTEE; REGULATIONS.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish an advisory committee. The committee shall include representatives of organizations representing State governors, State welfare administrators, and State directors of programs under part D of title IV of the Social Security Act. The Secretary shall consult with the advisory committee before issuing any regulations with respect to the standards required by the amendment made by subsection (a) (including regulations regarding what constitutes an adequate response on the part of a State to the request of an individual, State, or jurisdiction).

(2) Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue a notice of proposed rulemaking with respect to the standards required by the amendment made by subsection (a), and, after allowing not less than 60 days for public comment, shall issue final regulations not later than the first day of the 10th month beginning after such date of enactment.

SEC. 122. REQUIREMENT OF PROMPT STATE DISTRIBUTION OF AMOUNTS COLLECTED AS CHILD SUPPORT.

(a) IN GENERAL.—Section 452 of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end the following new subsection:

"(i) The standards required by subsection (a)(1) shall include standards establishing time limits governing the period or periods within which a State must distribute, in accordance with section 457, amounts collected as child support pursuant to the State's plan approved under this part.".

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue a notice of proposed rulemaking with respect to the standards required by the amendment made by subsection (a), and, after allowing not less than 60 days for public comment, shall issue final regulations not later than the first day of the 10th month to begin after such date of enactment. 42 USC 652 note.

SEC. 123. AUTOMATED TRACKING AND MONITORING SYSTEMS MADE MANDATORY.

(a) PLAN REQUIREMENT.—(1) Section 454 of the Social Security Act is amended— 42 USC 654.

(A) by striking "and" after the semicolon at the end of paragraph (22);

(B) by striking the period at the end of paragraph (23) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (23) the following new paragraph:

"(24) provide that if the State, as of the date of the enactment of this paragraph, does not have in effect an automated data processing and information retrieval system meeting all of the requirements of paragraph (16), the State—

"(A) will submit to the Secretary by October 1, 1991, for review and approval by the Secretary within 9 months after submittal an advance automated data processing planning document of the type referred to in such paragraph; and

"(B) will have in effect by October 1, 1995, an operational automated data processing and information retrieval system, meeting all the requirements of that paragraph, which has been approved by the Secretary.".

(2) Section 454(16) of such Act is amended by striking "an automatic" and inserting in lieu thereof "a statewide automated".

(b) WAIVER AUTHORITY.—Section 452(d) of such Act is amended— 42 USC 652.

(1) by striking "The" in paragraph (1) and inserting in lieu thereof "Except as provided in paragraph (3), the"; and

(2) by adding at the end the following new paragraph:

"(3) The Secretary may waive any requirement of paragraph (1) or any condition specified under section 454(16) with respect to a State if—

"(A) the State demonstrates to the satisfaction of the Secretary that the State has an alternative system or systems that enable the State, for purposes of section 403(h), to be in substantial compliance with other requirements of this part; and

"(B)(i) the waiver meets the criteria of paragraphs (1), (2), and (3) of section 1115(c), or

"(ii) the State provides assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program.".

Effective date.

(c) REPEAL OF 90-PERCENT FEDERAL REIMBURSEMENT RATE FOR AUTOMATED DATA SYSTEMS.—Effective September 30, 1995, section 455(a)(1) of such Act (as amended by section 112(a) of this Act) is amended—

(1) by striking subparagraphs (A) and (B);

(2) by redesignating subparagraph (C) as subparagraph (A);

(3) in subparagraph (A) (as so redesignated)—

(A) by striking "(rather than the percentage specified in subparagraph (A))"; and

(B) by inserting "and" after the semicolon; and

(4) by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

"(B) equal to the percent specified in paragraph (2) of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454;".

102 STAT. 2353

42 USC 602, 652, 654.

(d) CONFORMING AMENDMENTS.—Sections 402(e), 452(d)(1), and 454(16) of such Act are each amended by striking "automatic" each place it appears and inserting in lieu thereof "automated".

SEC. 124. ADDITIONAL INFORMATION SOURCE FOR PARENT LOCATOR SERVICE.

42 USC 653.

(a) IN GENERAL.—Section 453(e) of the Social Security Act is amended by adding at the end the following new paragraph:

Contracts.

"(3) The Secretary of Labor shall enter into an agreement with the Secretary to provide prompt access for the Secretary (in accordance with this subsection) to the wage and unemployment compensation claims information and data maintained by or for the Department of Labor or State employment security agencies.".

42 USC 503.

(b) STATE REQUIREMENT TO ASSIST SECRETARY IN OBTAINING INFORMATION.—(1) Section 303 of such Act is amended by adding at the end the following new subsection:

"(h)(1) The State agency charged with the administration of the State law shall take such actions (in such manner as may be provided in the agreement between the Secretary of Health and Human Services and the Secretary of Labor under section 453(e)(3)) as may be necessary to enable the Secretary of Health and Human Services to obtain prompt access to any wage and unemployment compensation claims information (including any information that might be useful in locating an absent parent or such parent's employer) for use by the Secretary of Health and Human Services, for purposes of section 453, in carrying out the child support enforcement program under title IV.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirement of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until such Secretary is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, such Secretary shall make no further certification to the Secretary of the Treasury with respect to such State.".

42 USC 504.

(2) Section 304(a)(2) of such Act is amended by striking "or (e)" and inserting in lieu thereof "(e), or (h)".

42 USC 653 note.

(c) EFFECTIVE DATE; IMPLEMENTATION.—(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall become effective on the first day of the first calendar quarter which begins one year or more after the date of the enactment of this Act.

Contracts.

(2) The Secretary of Health and Human Services and the Secretary of Labor shall enter into the agreement required by the amendment made by subsection (a) not later than 90 days after the date of the enactment of this Act.

SEC. 125. USE OF SOCIAL SECURITY NUMBER TO ESTABLISH IDENTITY OF PARENTS.

42 USC 405.

(a) DISCLOSURE OF SOCIAL SECURITY NUMBER AT TIME OF CHILD'S BIRTH.—Section 205(c)(2)(C) of the Social Security Act is amended—

(1) in clause (i)—

(A) by inserting "(I)" after "(i)"; and

(B) by adding at the end the following new subclause:

"(II) In the administration of any law involving the issuance of a birth certificate, each State shall require each parent to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if the parent has more than one such number) issued to the parent unless the State (in accordance with regulations prescribed by the Secretary) finds good cause for not requiring the furnishing of such number. The State shall make numbers furnished under this subclause available to the agency administering the State's plan under part D of title IV in accordance with Federal or State law and regulation. Such numbers shall not be recorded on the birth certificate. A State shall not use any social security account number, obtained with respect to the issuance by the State of a birth certificate, for any purpose other than for the enforcement of child support orders in effect in the State, unless section 7(a) of the Privacy Act of 1974 does not prohibit the State from requiring the disclosure of such number, by reason of the State having adopted, before January 1, 1975, a statute or regulation requiring such disclosure."; and

Regulations.

102 STAT. 2354

(2) in clause (ii)—

(A) by striking "clause (i) of this subparagraph" and inserting in lieu thereof "subclause (I) of clause (i)"; and

(B) by adding at the end the following new sentence: "If and to the extent that any such provision is inconsistent with the requirement set forth in subclause (II) of clause (i), such provision shall, on and after the date of the enactment of such subclause, be null, void, and of no effect.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the first day of the 25th month which begins on or after the date of the enactment of this Act.

42 USC 405 note.

SEC. 126. COMMISSION ON INTERSTATE CHILD SUPPORT.

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a Commission to be known as the Commission on Interstate Child Support (in this section referred to as the "Commission") to be composed of 15 members appointed in accordance with subsection (b)(1).

42 USC 666 note.

(b) APPOINTMENT AND TERM OF MEMBERS; VACANCIES; TRANSACTION OF BUSINESS.—(1) Members of the Commission shall be appointed as follows from among individuals knowledgeable in matters involving interstate child support:

(A) Four members shall be appointed jointly by the Majority and Minority Leaders of the Senate, in consultation with the chairman and ranking minority member of the Committee on Finance of the Senate.

(B) Four members shall be appointed jointly by the Speaker of the House and the Minority Leader of the House, in consultation with the chairman and ranking minority member of the Committee on Ways and Means of the House of Representatives.

(C) Seven members shall be appointed by the Secretary of Health and Human Services (in this section referred to as the "Secretary").

(2) Members of the Commission shall serve for the life of the Commission. A vacancy on the Commission shall be filled in the manner in which the original appointment was made and shall not affect the powers or duties of the Commission.

(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business. Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

102 STAT. 2355

(4) The members of the Commission shall be appointed by July 1, 1989. The first meeting of the Commission shall be called by the Secretary as promptly as possible after all such members are ap-

pointed. At such meeting, the members of the Commission shall select a chairman from among such members and shall meet thereafter at the call of the chairman or of a majority of the members.

(c) BASIC PAY.—(1) Members of the Commission shall serve as such without pay.

(2) Members of the Commission shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the government service are allowed travel expenses under section 5703 of title 5 of the United States Code.

(d) DUTIES OF THE COMMISSION.—(1) During the fiscal year 1990, the Commission shall hold one or more national conferences on interstate child support reform for the purpose of assisting the Commission in preparing the report required under paragraph (2).

Reports. (2) Not later than May 1, 1991, the Commission shall submit a report to the Congress that contains recommendations for—

(A) improving the interstate establishment and enforcement of child support awards, and

(B) revising the Uniform Reciprocal Enforcement of Support Act.

(e) POWERS OF THE COMMISSION.—(1) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States Government.

(2) The Commission may accept, use, and dispose of donations of money and property and may accept such volunteer services of individuals as it deems appropriate.

(3) The Commission may procure supplies, services, and property, and make contracts (but only to the extent or in such amounts as are provided in appropriation Acts).

(4) For purposes of carrying out its duties under subsection (d), the Commission may adopt such rules for its organization and procedures as it deems appropriate.

(f) TERMINATION OF THE COMMISSION.—(1) The Commission shall terminate on July 1, 1991.

(2) Any funds held by the Commission on the date of termination of the Commission shall be deposited in the general fund of the Treasury of the United States and credited as miscellaneous receipts. Any property (other than funds) held by the Commission on such date shall be disposed of as excess or surplus property.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $2,000,000.

SEC. 127. COSTS OF INTERSTATE ENFORCEMENT DEMONSTRATIONS EXCLUDED IN COMPUTING INCENTIVE PAYMENTS.

42 USC 658. Section 458(d) of the Social Security Act is amended by inserting immediately before the period at the end the following: ", and any amounts expended by the State in carrying out a special project assisted under section 455(e) shall be excluded".

102 STAT. 2356

42 USC 667 note. **SEC. 128. STUDY OF CHILD-REARING COSTS.**

Grants. Contracts. The Secretary of Health and Human Services shall, by grant or contract, conduct a study of the patterns of expenditures on children in 2-parent families, in single-parent families following divorce or separation, and in single-parent families in which the parents were never married, giving particular attention to the relative standards of living in households in which both parents and all of the children do not live together. The Secretary shall submit to the Congress no later than 2 years after the date of the enactment of this Act a full and complete report of the results of such study, including such recommendations as the Secretary may have for legislative, administrative, and other actions. There are authorized to be appropriated such sums as may be necessary to carry out this section.

Reports.

Appropriation authorization.

SEC. 129. COLLECTION AND REPORTING OF CHILD SUPPORT ENFORCEMENT DATA.

Part D of title IV of the Social Security Act is amended by adding at the end the following new section:

"COLLECTION AND REPORTING OF CHILD SUPPORT ENFORCEMENT DATA

"SEC. 469. (a) The Secretary of Health and Human Services shall collect and maintain, on a fiscal year basis, up-to-date statistics, by State, with respect to each of the services specified in subsection (b) (separately stated in the case of each such service for families receiving aid under plans approved under part A of title IV of the Social Security Act and for families not receiving such aid), on— 42 USC 669.

"(1) the number of cases in the child support enforcement agency caseload under part D of title IV of such Act which need the service involved; and

"(2) the number of such cases in which the service has actually been provided.

"(b) The services referred to in subsection (a) are—

"(1) paternity determination;

"(2) location of an absent parent for the purpose of establishing a child support obligation;

"(3) establishment of a child support obligation; and

"(4) location of an absent parent for the purpose of enforcing or modifying an established child support obligation.

"(c) For purposes of subsection (a)(2), a service has actually been provided when the task described by the service has been accomplished.".

TITLE II—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

SEC. 201. ESTABLISHMENT AND OPERATION OF PROGRAM.

(a) STATE PLAN REQUIREMENT.—Section 402(a)(19) of the Social Security Act is amended to read as follows: 42 USC 602.

"(19) provide—

"(A) that the State has in effect and operation a job opportunities and basic skills training program which meets the requirements of part F;

"(B) that— 102 STAT. 2357

"(i) the State will (except as otherwise provided in this paragraph or part F), to the extent that the program is available in the political subdivision involved and State resources otherwise permit—

"(I) require all recipients of aid to families with dependent children in such subdivision with respect to whom the State guarantees child care in accordance with section 402(g) to participate in the program; and

"(II) allow applicants for and recipients of aid to families with dependent children who are not required under subclause (I) to participate in the program to do so on a voluntary basis;

"(ii) in determining the priority of participation by individuals from among those groups described in clauses (i), (ii), (iii), and (iv) of section 403(l)(2)(B), the State will give first consideration to applicants for or recipients of aid to families with dependent children within any such group who volunteer to participate in the program;

"(iii) if an exempt participant drops out of the program without good cause after having commenced participation in the program, he or she shall thereafter

not be given priority so long as other individuals are actively seeking to participate; and

"(iv) the State need not require or allow participation of an individual in the program if as a result of such participation the amount payable to the State for quarters in a fiscal year with respect to the program would be reduced pursuant to section 403(l)(2);

"(C) that an individual may not be required to participate in the program if such individual—

"(i) is ill, incapacitated, or of advanced age;

"(ii) is needed in the home because of the illness or incapacity of another member of the household;

"(iii) subject to subparagraph (D)—

"(I) is the parent or other relative of a child under 3 years of age (or, if so provided in the State plan, under any age that is less than 3 years but not less than one year) who is personally providing care for the child, or

"(II) is the parent or other relative personally providing care for a child under 6 years of age, unless the State assures that child care in accordance with section 402(g) will be guaranteed and that participation in the program by the parent or relative will not be required for more than 20 hours a week;

"(iv) works 30 or more hours a week;

"(v) is a child who is under age 16 or attends, full-time, an elementary, secondary, or vocational (or technical) school;

"(vi) is pregnant if it has been medically verified that the child is expected to be born in the month in which such participation would otherwise be required or within the 6-month period immediately following such month; or

102 STAT. 2358

"(vii) resides in an area of the State where the program is not available;

"(D) that, in the case of a family eligible for aid to families with dependent children by reason of the unemployment of the parent who is the principal earner, subparagraph (C)(iii) shall apply only to one parent, except that, in the case of such a family, the State may at its option make such subparagraph inapplicable to both of the parents (and require their participation in the program) if child care in accordance with section 402(g) is guaranteed with respect to the family;

"(E) that—

"(i) to the extent that the program is available in the political subdivision involved and State resources otherwise permit, in the case of a custodial parent who has not attained 20 years of age, has not successfully completed a high-school education (or its equivalent), and is required to participate in the program (including an individual who would otherwise be exempt from participation in the program solely by reason of subparagraph (C)(iii)), the State agency (subject to clause (ii)) will require such parent to participate in an educational activity; and

"(ii) the State agency may—

"(I) require a parent described in clause (i) (notwithstanding the part-time requirement in subparagraph (C)(iii)(II)) to participate in educational activities directed toward the attainment of a high school diploma or its equivalent on a full-time (as defined by the educational provider) basis,

"(II) establish criteria in accordance with regulations of the Secretary under which custodial parents described in clause (i) who have not attained

18 years of age may be exempted from the school attendance requirement under such clause, or

"(III) require a parent described in clause (i) who is age 18 or 19 to participate in training or work activities (in lieu of the educational activities under such clause) if such parent fails to make good progress in successfully completing such educational activities or if it is determined (prior to any assignment of the individual to such educational activities) pursuant to an educational assessment that participation in such educational activities is inappropriate for such parent;

"(F) that—

"(i) if the parent or other caretaker relative or any dependent child in the family is attending (in good standing) an institution of higher education (as defined in section 481(a) of the Higher Education Act of 1965), or a school or course of vocational or technical training (not less than half time) consistent with the individual's employment goals, and is making satisfactory progress in such institution, school, or course, at the time he or she would otherwise commence participation in the program under this section, such attendance may constitute satisfactory participation in the program (by that caretaker or child) so long as it continues and is consistent with such goals; 102 STAT. 2359

"(ii) any other activities in which an individual described in clause (i) participates may not be permitted to interfere with the school or training described in that clause;

"(iii) the costs of such school or training shall not constitute federally reimbursable expenses for purposes of section 403; and

"(iv) the costs of day care, transportation, and other services which are necessary (as determined by the State agency) for such attendance in accordance with section 402(g) are eligible for Federal reimbursement; Day care. Transportation.

"(G) that—

"(i) if an individual who is required by the provisions of this paragraph to participate in the program or who is so required by reason of the State's having exercised the option under subparagraph (D) fails without good cause to participate in the program or refuses without good cause to accept employment in which such individual is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined to be a bona fide offer of employment—

"(I) the needs of such individual (whether or not section 407 applies) shall not be taken into account in making the determination with respect to his or her family under paragraph (7) of this subsection, and if such individual is a parent or other caretaker relative, payments of aid for any dependent child in the family in the form of payments of the type described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) through (D) thereof) will be made unless the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made; and

"(II) if such individual is a member of a family which is eligible for aid to families with dependent children by reason of section 407, and his or her spouse is not participating in the program, the

needs of such spouse shall also not be taken into account in making such determination;

"(ii) any sanction described in clause (i) shall continue—

"(I) in the case of the individual's first failure to comply, until the failure to comply ceases;

"(II) in the case of the individual's second failure to comply, until the failure to comply ceases or 3 months (whichever is longer); and

"(III) in the case of any subsequent failure to comply, until the failure to comply ceases or 6 months (whichever is longer);

"(iii) the State will promptly remind any individual whose failure to comply has continued for 3 months, in writing, of the individual's option to end the sanction by terminating such failure; and

102 STAT. 2360

"(iv) no sanction shall be imposed under this subparagraph—

"(I) on the basis of the refusal of an individual described in subparagraph (C)(iii)(II) to accept employment, if the employment would require such individual to work more than 20 hours a week, or

"(II) on the basis of the refusal of an individual to participate in the program or accept employment, if child care (or day care for any incapacitated individual living in the same home as a dependent child) is necessary for an individual to participate in the program or accept employment, such care is not available, and the State agency fails to provide such care; and

"(H) the State agency may require a participant in the program to accept a job only if such agency assures that the family of such participant will experience no net loss of cash income resulting from acceptance of the job; and any costs incurred by the State agency as a result of this subparagraph shall be treated as expenditures with respect to which section 403(a)(1) or 403(a)(2) applies;".

(b) ESTABLISHMENT AND OPERATION OF PROGRAM.—Title IV of such Act is further amended by adding at the end the following new part:

"PART F—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

"PURPOSE AND DEFINITIONS

42 USC 681.

"SEC. 481. (a) PURPOSE.—It is the purpose of this part to assure that needy families with children obtain the education, training, and employment that will help them avoid long-term welfare dependence.

"(b) MEANING OF TERMS.—Except to the extent otherwise specifically indicated, terms used in this part shall have the meanings given them in or under part A.

"ESTABLISHMENT AND OPERATION OF STATE PROGRAMS

42 USC 682.
Regulations.

"SEC. 482. (a) STATE PLANS FOR JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAMS.—(1)(A) As a condition of its participation in the program of aid to families with dependent children under part A, each State shall establish and operate a job opportunities and basic skills training program (in this part referred to as the 'program') under a plan approved by the Secretary as meeting all of the requirements of this part and section 402(a)(19), and shall, in accordance with regulations prescribed by the Secretary, periodically (but not less frequently than every 2 years) review and update its plan and submit the updated plan for approval by the Secretary.

"(B) A State plan for establishing and operating the program must describe how the State intends to implement the program during the period covered by the plan, and must indicate, through cross-references to the appropriate provisions of this part and part A, that the program will be operated in accordance with such provisior of law. In addition, such plan must contain (i) an estimate of the 102 STAT. 2361
number of persons to be served by the program, (ii) a description of the services to be provided within the State and the political subdivisions thereof, the needs to be addressed through the provision of such services, the extent to which such services are expected to be made available by other agencies on a nonreimbursable basis, and the extent to which such services are to be provided or funded by the program, and (iii) such additional information as the Secretary may require by regulation to enable the Secretary to determine that the State program will meet all of the requirements of this part and part A.

"(C) The Secretary shall consult with the Secretary of Labor on general plan requirements and on criteria to be used in approving State plans under this section.

"(D)(i) Not later than October 1, 1992, each State shall make the program available in each political subdivision of such State where it is feasible to do so, after taking into account the number of prospective participants, the local economy, and other relevant factors.

"(ii) If a State determines that it is not feasible to make the program available in each such subdivision, the State plan must provide appropriate justification to the Secretary.

"(2) The State agency that administers or supervises the administration of the State's plan approved under section 402 shall be responsible for the administration or supervision of the administration of the State's program.

"(3) Federal funds made available to a State for purposes of the program shall not be used to supplant non-Federal funds for existing services and activities which promote the purpose of this part. State or local funds expended for such purpose shall be maintained at least at the level of such expenditures for the fiscal year 1986.

"(b) ASSESSMENT AND REVIEW OF NEEDS AND SKILLS OF PARTICIPANTS; EMPLOYABILITY PLAN.—(1)(A) The State agency must make an initial assessment of the educational, child care, and other supportive services needs as well as the skills, prior work experience, and employability of each participant in the program under this part, including a review of the family circumstances. The agency may also review the needs of any child of the participant.

"(B) On the basis of such assessment, the State agency, in consultation with the participant, shall develop an employability plan for the participant. The employability plan shall explain the services that will be provided by the State agency and the activities in which the participant will take part under the program, including child care and other supportive services, shall set forth an employment goal for the participant, and shall, to the maximum extent possible and consistent with this section, reflect the respective preferences of such participant. The plan must take into account the participant's supportive services needs, available program resources, and local employment opportunities. The employability plan shall not be considered a contract.

"(2) Following the initial assessment and review and the development of the employability plan with respect to any participant in the program, the State agency may require the participant (or the adult caretaker in the family of which the participant is a member) to negotiate and enter into an agreement with the State agency that specifies such matters as the participant's obligations under the program, the duration of participation in the program, and the activities to be conducted and the services to be provided in the 102 STAT. 2362
course of such participation. If the State agency exercises the option under the preceding sentence, the State agency must give the participant such assistance as he or she may require in reviewing and understanding the agreement.

"(3) The State agency may assign a case manager to each participant and the participant's family. The case manager so assigned must be responsible for assisting the family to obtain any services which may be needed to assure effective participation in the program.

"(c) PROVISION OF PROGRAM AND EMPLOYMENT INFORMATION.—(1) The State agency must ensure that all applicants for and recipients of aid to families with dependent children are encouraged, assisted, and required to fulfill their responsibilities to support their children by preparing for, accepting, and retaining such employment as they are capable of performing.

"(2) The State agency must inform all applicants for and recipients of aid to families with dependent children of the education, employment, and training opportunities, and the support services (including child care and health coverage transition options), for which they are eligible, the obligations of the State agency, and the rights, responsibilities, and obligations of participants in the program.

"(3) The State agency must—

"(A) provide (directly or through arrangements with others) information on the types and locations of child care services reasonably accessible to participants in the program,

"(B) inform participants that assistance is available to help them select appropriate child care services, and

"(C) on request, provide assistance to participants in obtaining child care services.

"(4) The State agency must inform applicants for and recipients of aid to families with dependent children of the grounds for exemption from participation in the program and the consequences of refusal to participate if not exempt, and provide other appropriate information with respect to such participation.

"(5) Within one month after the State agency gives a recipient of aid to families with dependent children the information described in the preceding provisions of this paragraph, the State agency must notify such recipient of the opportunity to indicate his or her desire to participate in the program, including a clear description of how to enter the program.

"(d) SERVICES AND ACTIVITIES UNDER THE PROGRAM.—(1)(A) In carrying out the program, each State shall make available a broad range of services and activities to aid in carrying out the purpose of this part. Such services and activities—

"(i) shall include—

"(I) educational activities (as appropriate), including high school or equivalent education (combined with training as needed), basic and remedial education to achieve a basic literacy level, and education for individuals with limited English proficiency;

"(II) job skills training;

"(III) job readiness activities to help prepare participants for work; and

"(IV) job development and job placement; and

102 STAT. 2363

"(ii) must also include at least 2 of the following:

"(I) group and individual job search as described in subsection (g);

"(II) on-the-job training;

"(III) work supplementation programs as described in subsection (e); and

"(IV) community work experience programs as described in subsection (f) or any other work experience program approved by the Secretary.

"(B) The State may also offer to participants under the program (i) postsecondary education in appropriate cases, and (ii) such other education, training, and employment activities as may be determined by the State and allowed by regulations of the Secretary.

"(2) If the State requires an individual who has attained the age of 20 years and has not earned a high school diploma (or equivalent) to

participate in the program, the State agency shall include educational activities consistent with his or her employment goals as a component of the individual's participation in the program, unless the individual demonstrates a basic literacy level, or the employability plan for the individual identifies a long-term employment goal that does not require a high school diploma (or equivalent). Any other services or activities to which such a participant is assigned may not be permitted to interfere with his or her participation in an appropriate educational activity under this subparagraph.

"(3) Notwithstanding any other provision of this section, the Secretary shall permit up to 5 States to provide services under the program, on a voluntary or mandatory basis, to non-custodial parents who are unemployed and unable to meet their child support obligations. Any State providing services to non-custodial parents pursuant to this paragraph shall evaluate the provision of such services, giving particular attention to the extent to which the provision of such services to those parents is contributing to the achievement of the purpose of this part, and shall report the results of such evaluation to the Secretary. Reports.

"(e) WORK SUPPLEMENTATION PROGRAM.—(1) Any State may institute a work supplementation program under which such State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable to participants in the program as aid to families with dependent children and use such sums instead for the purpose of providing and subsidizing jobs for such participants (as described in paragraph (3)(C) (i) and (ii)), as an alternative to the aid to families with dependent children that would otherwise be so payable to them.

"(2)(A) Notwithstanding section 406 or any other provision of law, Federal funds may be paid to a State under part A, subject to this subsection, with respect to expenditures incurred in operating a work supplementation program under this subsection.

"(B) Nothing in this part, or in any State plan approved under part A, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a work supplementation program in accordance with this subsection and section 484.

"(C) Notwithstanding section 402(a)(23) or any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this subsection.

102 STAT. 2364

"(D) Notwithstanding section 402(a)(1) or any other provision of law, a State operating a work supplementation program under this subsection may provide that the need standards in effect in those areas of the State in which such program is in operation may be different from the need standards in effect in the areas in which such program is not in operation, and such State may provide that the need standards for categories of recipients may vary among such categories to the extent the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

"(E) Notwithstanding any other provision of law, a State may make such further adjustments in the amounts of the aid to families with dependent children paid under the plan to different categories of recipients (as determined under subparagraph (D)) in order to offset increases in benefits from needs-related programs (other than the State plan approved under part A) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(F) In determining the amounts to be reserved and used for providing and subsidizing jobs under this subsection as described in paragraph (1), the State may use a sampling methodology.

"(G) Notwithstanding section 402(a)(8) or any other provision of law, a State operating a work supplementation program under this

individual (or other individual living in the same household as such individual) who would be eligible for aid to families with dependent children under the State plan approved under part A if such State did not have a work supplementation program, shall be considered individuals receiving aid to families with dependent children under the State plan approved under part A for purposes of eligibility for medical assistance under the State plan approved under title XIX.

"(7) No individual receiving aid to families with dependent children under a State plan shall be excused by reason of the fact that such State has a work supplementation program from any requirement of this part relating to work requirements, except during periods in which such individual is employed under such work supplementation program.

"(f) COMMUNITY WORK EXPERIENCE PROGRAM.—(1)(A) Any State may establish a community work experience program in accordance with this subsection. The purpose of the community work experience program is to provide experience and training for individuals not otherwise able to obtain employment, in order to assist them to move into regular employment. Community work experience programs shall be designed to improve the employability of participants through actual work experience and training and to enable individuals employed under community work experience programs to move promptly into regular public or private employment. The facilities of the State public employment offices may be utilized to find 102 STAT. 2366
employment opportunities for recipients under this program. Community work experience programs shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care. To the extent possible, the prior training, experience, and skills of a recipient shall be used in making appropriate work experience assignments.

"(B)(i) A State that elects to establish a community work experience program under this subsection shall operate such program so that each participant (as determined by the State) either works or undergoes training (or both) with the maximum number of hours that any such individual may be required to work in any month being a number equal to the amount of the aid to families with dependent children payable with respect to the family of which such individual is a member under the State plan approved under this part, divided by the greater of the Federal minimum wage or the applicable State minimum wage (and the portion of a recipient's aid for which the State is reimbursed by a child support collection shall not be taken into account in determining the number of hours that such individual may be required to work).

"(ii) After an individual has been assigned to a position in a community work experience program under this subsection for 9 months, such individual may not be required to continue in that assignment unless the maximum number of hours of participation is no greater than (I) the amount of the aid to families with dependent children payable with respect to the family of which such individual is a member under the State plan approved under this part (excluding any portion of such aid for which the State is reimbursed by a child support payment), divided by (II) the higher of (a) the Federal minimum wage or the applicable State minimum wage, whichever is greater, or (b) the rate of pay for individuals employed in the same or similar occupations by the same employer at the same site.

"(C) Nothing contained in this subsection shall be construed as authorizing the payment of aid to families with dependent children as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of his participation in a program under this subsection.

"(D) Nothing in this part or in any State plan approved under this part shall be construed to prevent a State from operating (on such

terms and conditions and in such cases as the State may find to be necessary or appropriate) a community work experience program in accordance with this subsection and subsection (d).

"(E) Participants in community work experience programs under this subsection may perform work in the public interest (which otherwise meets the requirements of this subsection) for a Federal office or agency with its consent, and, notwithstanding section 1342 of title 31, United States Code, or any other provision of law, such agency may accept such services, but such participants shall not be considered to be Federal employees for any purpose.

"(2) After each 6 months of an individual's participation in a community work experience program under this subsection, and at the conclusion of each assignment of the individual under such program, the State agency must provide a reassessment and
102 STAT. 2367 revision, as appropriate, of the individual's employability plan.

"(3) The State agency shall provide coordination among a community work experience program operated pursuant to this subsection, any program of job search under subsection (g), and the other employment-related activities under the program established by this section so as to insure that job placement will have priority over participation in the community work experience program, and that individuals eligible to participate in more than one such program are not denied aid to families with dependent children on the grounds of failure to participate in one such program if they are actively and satisfactorily participating in another. The State agency may provide that part-time participation in more than one such program may be required where appropriate.

"(4) In the case of any State that makes expenditures in the form described in paragraph (1) under its State plan approved under section 482(a)(1), expenditures for the operation and administration of the program under this section may not include, for purposes of section 403, the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in paragraph (1) or the cost of supervision of work under such program, and may include only such other costs attributable to such programs as are permitted by the Secretary.

"(g) JOB SEARCH PROGRAM.—(1) The State agency may establish and carry out a program of job search for individuals participating in the program under this part.

"(2) Notwithstanding section 402(a)(19)(B)(i), the State agency may require job search by an individual applying for or receiving aid to families with dependent children (other than an individual described in section 402(a)(19)(C) who is not an individual with respect to whom section 402(a)(19)(D) applies)—

"(A) subject to the next to last sentence of this paragraph, beginning at the time such individual applies for aid to families with dependent children and continuing for a period (prescribed by the State) of not more than 8 weeks (but this requirement may not be used as a reason for any delay in making a determination of an individual's eligibility for such aid or in issuing a payment to or on behalf of any individual who is otherwise eligible for such aid); and

"(B) at such time or times after the close of the period prescribed under subparagraph (A) as the State agency may determine but not to exceed a total of 8 weeks in any period of 12 consecutive months.

In no event may an individual be required to participate in job search for more than 3 weeks before the State agency conducts the assessment and review with respect to such individual under subsection (b)(1)(A). Job search activities in addition to those required under the preceding provisions of this paragraph may be required only in combination with some other education, training, or employment activity which is designed to improve the individual's prospects for employment.

"(3) Job search by an individual under this subsection shall in no event be treated, for any purpose, as an activity under the program

if the individual has participated in such job search for 4 months out of the preceding 12 months.

"(h) DISPUTE RESOLUTION PROCEDURES.—Each State shall establish a conciliation procedure for the resolution of disputes involving an individual's participation in the program and (if the dispute involved is not resolved through conciliation) shall provide an opportunity for a hearing with respect to the dispute, which hearing may be provided through a hearing process established for purposes of resolving disputes with respect to the program or through the provision of a hearing pursuant to section 402(a)(4); but in no event shall aid to families with dependent children be suspended, reduced, discontinued, or terminated as a result of a dispute involving an individual's participation in the program until such individual has an opportunity for a hearing that meets the standards set forth by the United States Supreme Court in Goldberg v. Kelly, 397 U.S. 254 (1970).

102 STAT. 2368

"(i) SPECIAL PROVISIONS RELATING TO INDIAN TRIBES.—(1) Within 6 months after the date of the enactment of the Family Support Act of 1988, an Indian tribe or Alaska Native organization may apply to the Secretary to conduct a job opportunities and basic skills training program to carry out the purpose of this subsection. If the Secretary approves such tribe's or organization's application, the maximum amount that may be paid to the State under section 403(l) in which such tribe or organization is located shall be reduced by the Secretary in accordance with paragraph (2) and an amount equal to the amount of such reduction shall be paid directly to such tribe or organization (without the requirement of any nonfederal share) for the operation of such program. In determining whether to approve an application from an Alaska Native organization, the Secretary shall consider whether approval of the application would promote the efficient and nonduplicative administration of job opportunities and basic skills training programs in the State.

Alaska.

"(2) The amount of the reduction under paragraph (1) with respect to any State in which is located an Indian tribe or Alaska Native organization with an application approved under such paragraph shall be an amount equal to the amount that bears the same ratio to the maximum amount that could be paid under section 403(l) to the State as—

"(A) the number of adult members of such Indian tribe receiving aid to families with dependent children bears to the number of all such adult recipients in the State, or

"(B) the number of adult Alaska Natives receiving aid to families with dependent children who reside within the boundaries of such Alaska Native organization bears to the number of all such adult recipients in the State of Alaska.

"(3) The job opportunities and basic skills training program set forth in the application of an Indian tribe or Alaska Native organization under paragraph (1) need not meet any requirement of the program under this part or under section 402(a)(19) that the Secretary determines is inappropriate with respect to such job opportunities and basic skills training program.

"(4) The job opportunities and basic skills training program of any Indian tribe or Alaska Native organization may be terminated voluntarily by such tribe or Alaska Native organization or may be terminated by the Secretary upon a finding that the tribe or Alaska Native organization is not conducting such program in substantial conformity with the terms of the application approved by the Secretary, and the maximum amount that may be paid under section 403(l) to the State within which the tribe or Alaska Native organization is located (as reduced pursuant to paragraph (1)) shall be increased by any portion of the amount retained by the Secretary with respect to such program (and not payable to such tribe or Alaska Native organization for obligations already incurred). The reduction under paragraph (1) shall in no event apply to a State for any fiscal year beginning after such program is terminated if no other such program remains in operation in the State.

102 STAT. 2369

"(5) For purposes of this subsection, an Indian tribe is any tribe, band, nation, or other organized group or community of Indians that—

"(A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

"(B) for which a reservation (as defined in paragraph (6)) exists.

"(6) For purposes of this subsection, a reservation includes Indian reservations, public domain Indian allotments, and former Indian reservations in Oklahoma.

"(7) For purposes of this subsection—

"(A) an Alaska Native organization is any organized group of Alaska Natives eligible to operate a Federal program under Public Law 93-638 or such group's designee;

"(B) the boundaries of an Alaska Native organization shall be those of the geographical region, established pursuant to section 7(a) of the Alaska Native Claims Settlement Act, within which the Alaska Native organization is located (without regard to the ownership of the land within the boundaries);

"(C) the Secretary may approve only one application from an Alaska Native organization for each of the 12 geographical regions established pursuant to section 7(a) of the Alaska Native Claims Settlement Act; and

"(D) any Alaska Native, otherwise eligible or required to participate in a job opportunities and basic skills training program, residing within the boundaries of an Alaska Native organization whose application has been approved by the Secretary, shall be eligible to participate in the job opportunities and basic skills training program administered by such Alaska Native organization.

"(8) Nothing in this subsection shall be construed to grant or defer any status or powers other than those expressly granted in this subsection or to validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people.

"COORDINATION REQUIREMENTS

42 USC 683.

"SEC. 483. (a)(1) The Governor of each State shall assure that program activities under this part are coordinated in that State with programs operated under the Job Training Partnership Act and with any other relevant employment, training, and education programs available in that State. Appropriate components of the State's plan developed under section 482(a)(1) which relate to job training and work preparation shall be consistent with the coordination criteria specified in the Governor's coordination and special services plan required under section 121 of the Job Training Partnership Act.

"(2) The State plan so developed shall be submitted to the State job training coordinating council not less than 60 days before its submission to the Secretary, for the purpose of review and comment by the council. Concurrent with submission of the plan to the State job training coordinating council, the proposed State plan shall be published and made reasonably available to the general public through local news facilities and public announcements, in order to provide the opportunity for review and comment.

Public information.

102 STAT. 2370

"(3) The comments and recommendations of the State job training coordinating council under paragraph (2) shall be transmitted to the Governor of the State.

"(b) The Secretary of Health and Human Services shall consult with the Secretaries of Education and Labor on a continuing basis for the purpose of assuring the maximum coordination of education and training services in the development and implementation of the program under this part.

"(c) The State agency responsible for administering or supervising the administration of the State plan approved under part A shall

"(e) The provisions of this section apply to any work-related programs and activities under this part, and under any other work-related programs and activities authorized (in connection with the AFDC program) under section 1115.

Regulations. "(f) The Secretary of Health and Human Services and the Secretary of Labor shall jointly prescribe and issue regulations for the purpose of implementing and carrying out the provisions of this section, in accordance with the timetable established in section 203(a) of the Family Support Act of 1988.

"CONTRACT AUTHORITY

42 USC 685. "SEC. 485. (a) The State agency that administers or supervises the administration of the State's plan approved under section 402 shall carry out the programs under this part directly or through arrangements or under contracts with administrative entities under section 4(2) of the Job Training Partnership Act, with State and local educational agencies, and with other public agencies or private organizations (including community-based organizations as defined in section 4(5) of such Act).

"(b) Arrangements and contracts entered into under subsection (a) may cover any service or activity (including outreach) to be made available under the program to the extent that the service or activity is not otherwise available on a nonreimbursable basis.

"(c) The State agency and private industry councils (as established under section 102 of the Job Training Partnership Act) shall consult on the development of arrangements and contracts under the program established under a plan approved under section 482(a)(1), and under programs established under such Act.

"(d) In selecting service providers, the State agency shall take into account appropriate factors which may include past performance in providing similar services, demonstrated effectiveness, fiscal accountability, ability to meet performance standards, and such other factors as the State may determine to be appropriate.

102 STAT. 2372

"(e) The State agency shall use the services of each private industry council to identify and provide advice on the types of jobs available or likely to become available in the service delivery area (as defined in the Job Training Partnership Act) of the council, and shall ensure that the State program provides training in any area for jobs of a type which are, or are likely to become, available in the area.

"INITIAL STATE EVALUATIONS

42 USC 686. "SEC. 486. (a) With the objective of—

"(1) providing an in-depth assessment of potential participants in the program under this part in each State, so as to furnish an accurate picture on which to base estimates of future demands for services in conducting such program and to improve the efficiency of targeting under such program,

"(2) assuring that training for recipients of aid under such program will be realistically geared to labor market demands and that the program will produce individuals with marketable skills, while avoiding duplication and redundancy in the delivery of services, and

Effective date. "(3) otherwise assuring that States will have the information needed to carry out the purposes of the program,

each State may undertake and carry out an evaluation of demographic characteristics of potential participants in the program under this part within the 12-month period beginning on the date of the enactment of the Family Support Act of 1988. Such evaluation shall be carried out in each State by the agency which administers the State's program approved under section 402.

"(b) In carrying out the evaluation under subsection (a) the State shall give particular attention to the current and anticipated demands of the labor market or markets within the State, the types of training which are needed to meet those demands, and any

subsection (i) may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program, and (ii) during one or more of the first 9 months of an individual's employment pursuant to a program under this section, may apply to the wages of the individual the provisions of subparagraph (A)(iv) of section 402(a)(8) without regard to the provisions of subparagraph (B)(ii)(II) of such section.

"(3)(A) A work supplementation program operated by a State under this subsection may provide that any individual who is an eligible individual (as determined under subparagraph (B)) shall take a supplemented job (as defined in subparagraph (C)) to the extent that supplemented jobs are available under the program. Payments by the State to individuals or to employers under the work supplementation program shall be treated as expenditures incurred by the State for aid to families with dependent children except as limited by paragraph (4).

"(B) For purposes of this subsection, an eligible individual is an individual who is in a category which the State determines should be eligible to participate in the work supplementation program, and who would, at the time of placement in the job involved, be eligible for aid to families with dependent children under an approved State plan if such State did not have a work supplementation program in effect.

"(C) For purposes of this section, a supplemented job is—

"(i) a job provided to an eligible individual by the State or local agency administering the State plan under part A; or

"(ii) a job provided to an eligible individual by any other employer for which all or part of the wages are paid by such State or local agency.

A State may provide or subsidize under the program any job which such State determines to be appropriate.

"(D) At the option of the State, individuals who hold supplemented jobs under a State's work supplementation program shall be exempt from the retrospective budgeting requirements imposed pursuant to section 402(a)(13)(A)(ii) (and the amount of the aid which is payable to the family of any such individual for any month, or which would be so payable but for the individual's participation in the work supplementation program, shall be determined on the basis of the income and other relevant circumstances in that month).

102 STAT. 2365

"(4) The amount of the Federal payment to a State under section 403 for expenditures incurred in making payments to individuals and employers under a work supplementation program under this subsection shall not exceed an amount equal to the amount which would otherwise be payable under such section if the family of each individual employed in the program established in such State under this subsection had received the maximum amount of aid to families with dependent children payable under the State plan to such a family with no income (without regard to adjustments under paragraph (2)) for the lesser of (A) 9 months, or (B) the number of months in which such individual was employed in such program.

"(5)(A) Nothing in this subsection shall be construed as requiring the State or local agency administering the State plan to provide employee status to an eligible individual to whom it provides a job under the work supplementation program (or with respect to whom it provides all or part of the wages paid to the individual by another entity under such program), or as requiring any State or local agency to provide that an eligible individual filling a job position provided by another entity under such program be provided employee status by such entity during the first 13 weeks such individual fills that position.

Wages.

"(B) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

"(6) Any State that chooses to operate a work supplementation program under this subsection shall provide that any individual who participates in such program, and any child or relative of such

consult with the State education agency and the agency responsible for administering job training programs in the State in order to promote coordination of the planning and delivery of services under the program with programs operated under the Job Training Partnership Act and with education programs available in the State (including any program under the Adult Education Act or Carl D. Perkins Vocational Education Act).

"PROVISIONS GENERALLY APPLICABLE TO PROVISION OF SERVICES

"SEC. 484. (a) In assigning participants in the program under this part to any program activity, the State agency shall assure that— 42 USC 684.

"(1) each assignment takes into account the physical capacity, skills, experience, health and safety, family responsibilities, and place of residence of the participant;

"(2) no participant will be required, without his or her consent, to travel an unreasonable distance from his or her home or remain away from such home overnight;

"(3) individuals are not discriminated against on the basis of race, sex, national origin, religion, age, or handicapping condition, and all participants will have such rights as are available under any applicable Federal, State, or local law prohibiting discrimination; Discrimination, prohibition.

"(4) the conditions of participation are reasonable, taking into account in each case the proficiency of the participant and the child care and other supportive services needs of the participant; and

"(5) each assignment is based on available resources, the participant's circumstances, and local employment opportunities.

"(b) Appropriate workers' compensation and tort claims protection must be provided to participants on the same basis as they are provided to other individuals in the State in similar employment (as determined under regulations of the Secretary). Wages. Claims.

"(c) No work assignment under the program shall result in— Contracts. Wages.

"(1) the displacement of any currently employed worker or position (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits), or result in the impairment of existing contracts for services or collective bargaining agreements;

"(2) the employment or assignment of a participant or the filling of a position when (A) any other individual is on layoff from the same or any equivalent position, or (B) the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the effect of filling the vacancy so created with a participant subsidized under the program; or 102 STAT. 2371

"(3) any infringement of the promotional opportunities of any currently employed individual.

Funds available to carry out the program under this part may not be used to assist, promote, or deter union organizing. No participant may be assigned under section 482 (e) or (f) to fill any established unfilled position vacancy.

"(d)(1) The State shall establish and maintain (pursuant to regulations jointly issued by the Secretary and the Secretary of Labor) a grievance procedure for resolving complaints by regular employees or their representatives that the work assignment of an individual under the program violates any of the prohibitions described in subsection (c). A decision of the State under such procedure may be appealed to the Secretary of Labor for investigation and such action as such Secretary may find necessary.

"(2) The State shall hear complaints with respect to working conditions and workers' compensation, and wage rates in the case of individuals participating in community work experience programs described in section 482(f), under the State's fair hearing process. A decision of the State under such process may be appealed to the Secretary of Labor under such conditions as the joint regulations issued under subsection (f) may provide. Wages.

changes in the current service delivery systems which may be needed to satisfy the requirements of the program under this part.

"(c) The evaluation shall be structured so as to produce accurate and usable information on the age, family status, educational and literacy levels, duration of eligibility for aid to families with dependent children, and work experience of the individuals and families who are potential participants in the program under this part, including the actual numbers of such individuals and families in each such category.

"(d) The Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall provide each State with such technical assistance and data as it may need in order to carry out its evaluation under subsection (a); and each State shall transmit its evaluation to the Secretary by the close of the 12-month period specified in such subsection. The Secretary of Health and Human Services shall take such evaluations into account in developing performance standards.

"(e) As used in this section, the term 'potential participants' with respect to any State's program under this part means collectively all individuals in such State who are recipients of aid to families with dependent children under part A and who are members of the target populations identified in section 403(l)(2).".

(c) SEPARATE FUNDING FOR JOBS PROGRAM; FEDERAL FINANCIAL PARTICIPATION.—(1) Section 403 of such Act is amended by adding at the end the following new subsection:

42 USC 603.

102 STAT. 2373

"(k)(1) Each State with a plan approved under part F shall be entitled to payments under subsection (l) for any fiscal year in an amount equal to the sum of the applicable percentages (specified in such subsection) of its expenditures to carry out the program under part F (subject to limitations prescribed by or pursuant to such part or this section on expenditures that may be included for purposes of determining payment under subsection (l)), but such payments for any fiscal year in the case of any State may not exceed the limitation determined under paragraph (2) with respect to the State.

"(2) The limitation determined under this paragraph with respect to a State for any fiscal year is—

"(A) the amount allotted to the State for fiscal year 1987 under part C of this title as then in effect, plus

"(B) the amount that bears the same ratio to the amount specified in paragraph (3) for such fiscal year as the average monthly number of adult recipients (as defined in paragraph (4)) in the State in the preceding fiscal year bears to the average monthly number of such recipients in all the States for such preceding year.

"(3) The amount specified in this paragraph is—

"(A) $600,000,000 in the case of the fiscal year 1989,

"(B) $800,000,000 in the case of the fiscal year 1990,

"(C) $1,000,000,000 in the case of each of the fiscal years 1991, 1992, and 1993,

"(D) $1,100,000,000 in the case of the fiscal year 1994,

"(E) $1,300,000,000 in the case of the fiscal year 1995, and

"(F) $1,000,000,000 in the case of the fiscal year 1996 and each succeeding fiscal year,

reduced by the aggregate amount allotted to all the States for fiscal year 1987 pursuant to part C of this title as then in effect.

"(4) For purposes of this subsection, the term 'adult recipient' in the case of any State means an individual other than a dependent child (unless such child is the custodial parent of another dependent child) whose needs are met (in whole or in part) with payments of aid to families with dependent children.

"(5) None of the funds available to a State for purposes of the programs or activities conducted under part F shall be used for construction.".

(2) Section 403 of such Act (as amended by paragraph (1) of this subsection) is further amended by adding at the end the following new subsection:

"(l)(1)(A) In lieu of any payment under subsection (a), the Secretary shall pay to each State with a plan approved under section 482(a) (subject to the limitation determined under section 482(i)(2)) with respect to expenditures by the State to carry out a program under part F (including expenditures for child care under section 402(g)(1)(A), but only in the case of a State with respect to which section 1108 applies), an amount equal to—

"(i) with respect to so much of such expenditures in a fiscal year as do not exceed the State's expenditures in the fiscal year 1987 with respect to which payments were made to such State from its allotment for such fiscal year pursuant to part C of this title as then in effect, 90 percent; and

"(ii) with respect to so much of such expenditures in a fiscal year as exceed the amount described in clause (i)—

"(I) 50 percent, in the case of expenditures for administrative costs made by a State in operating such a program for such fiscal year (other than the personnel costs for staff employed full-time in the operation of such program) and the costs of transportation and other work-related supportive services under section 402(g)(2), and

102 STAT. 2374

"(II) the greater of 60 percent or the Federal medical assistance percentage (as defined in section 1118 in the case of any State to which section 1108 applies, or as defined in section 1905(b) in the case of any other State), in the case of expenditures made by a State in operating such a program for such fiscal year (other than for costs described in subclause (I)).

"(B) With respect to the amount for which payment is made to a State under subparagraph (A)(i), the State's expenditures for the costs of operating a program established under part F may be in cash or in kind, fairly evaluated.

"(2)(A) Notwithstanding paragraph (1), the Secretary shall pay to a State an amount equal to 50 percent of the expenditures made by such State in operating its program established under part F (in lieu of any different percentage specified in paragraph (1)(A)) if less than 55 percent of such expenditures are made with respect to individuals who are described in subparagraph (B).

"(B) An individual is described in this paragraph if the individual—

"(i)(I) is receiving aid to families with dependent children, and

"(II) has received such aid for any 36 of the preceding 60 months;

"(ii)(I) makes application for aid to families with dependent children, and

"(II) has received such aid for any 36 of the 60 months immediately preceding the most recent month for which application has been made;

"(iii) is a custodial parent under the age of 24 who (I) has not completed a high school education and, at the time of application for aid to families with dependent children, is not enrolled in high school (or a high school equivalency course of instruction), or (II) had little or no work experience in the preceding year; or

"(iv) is a member of a family in which the youngest child is within 2 years of being ineligible for aid to families with dependent children because of age.

"(C) This paragraph may be waived by the Secretary with respect to any State which demonstrates to the satisfaction of the Secretary that the characteristics of the caseload in that State make it infeasible to meet the requirements of this paragraph, and that the State is targeting other long-term or potential long-term recipients.

"(D) The Secretary shall biennially submit to the Congress any recommendations for modifications or additions to the groups of individuals described in subparagraph (B) that the Secretary determines would further the goal of assisting long-term or potential

long-term recipients of aid to families with dependent children to achieve self-sufficiency, which recommendations shall take into account the particular characteristics of the populations of individual States.

"(3)(A) Notwithstanding paragraph (1), the Secretary shall pay to a State an amount equal to 50 percent of the expenditures made by such State in a fiscal year in operating its program established under part F (in lieu of any different percentage specified in paragraph (1)(A)) if the State's participation rate (determined under subparagraph (B)) for the preceding fiscal year does not exceed or equal— 102 STAT. 2375

"(i) 7 percent if the preceding fiscal year is 1990;
"(ii) 7 percent if such year is 1991;
"(iii) 11 percent if such year is 1992;
"(iv) 11 percent if such year is 1993;
"(v) 15 percent if such year is 1994; and
"(vi) 20 percent if such year is 1995.

"(B)(i) The State's participation rate for a fiscal year shall be the average of its participation rates for computation periods (as defined in clause (ii)) in such fiscal year.

"(ii) The computation periods shall be—

"(I) the fiscal year, in the case of fiscal year 1990,

"(II) the first six months, and the seventh through twelfth months, in the case of fiscal year 1991,

"(III) the first three months, the fourth through sixth months, the seventh through ninth months, and the tenth through twelfth months, in the case of fiscal years 1992 and 1993, and

"(IV) each month, in the case of fiscal years 1994 and 1995.

"(iii) The State's participation rate for a computation period shall be the number, expressed as a percentage, equal to—

"(I) the average monthly number of individuals required or allowed by the State to participate in the program under part F who have participated in such program in months in the computation period, plus the number of individuals required or allowed by the State to participate in such program who have so participated in that month in such period for which the number of such participants is the greatest, divided by

"(II) twice the average monthly number of individuals required to participate in such period (other than individuals described in subparagraph (C)(iii)(I) or (D) of section 402(a)(19) with respect to whom the State has exercised its option to require their participation).

For purposes of this subparagraph, an individual shall not be considered to have satisfactorily participated in the program under part F solely by reason of such individual being registered to participate in such program.

"(C) Notwithstanding any other provision of this paragraph, no State shall be subject to payment under this paragraph (in lieu of paragraph (1)(A)) for failing to meet any participation rate required under this paragraph with respect to any fiscal year before 1991.

"(D) For purposes of this paragraph, an individual shall be determined to have participated in the program under part F, if such individual has participated in accordance with such requirements, consistent with regulations of the Secretary, as the State shall establish.

"(E) If the Secretary determines that the State has failed to achieve the participation rate for any fiscal year specified in the numbered clauses of subparagraph (A), he may waive, in whole or in part, the reduction in the payment rate otherwise required by such subparagraph if he finds that—

"(i) the State is in conformity with section 402(a)(19) and part F;

"(ii) the State has made a good faith effort to achieve the applicable participation rate for such fiscal year; and

102 STAT. 2376

"(iii) the State has submitted a proposal which is likely to achieve the applicable participation rate for the current fiscal year and the subsequent fiscal years (if any) specified therein.

"(4)(A)(i) Subject to subparagraph (B), in the case of any family eligible for aid to families with dependent children by reason of the unemployment of the parent who is the principal earner, the State agency shall require that at least one parent in any such family participate, for a total of at least 16 hours a week during any period in which either parent is required to participate in the program, in a work supplementation program, a community work experience or other work experience program, on-the-job training, or a State designed work program approved by the Secretary, as such programs are described in section 482(d)(1). In the case of a parent under age 25 who has not completed high school or an equivalent course of education, the State may require such parent to participate in educational activities directed at the attainment of a high school diploma (or equivalent) or another basic education program in lieu of one or more of the programs specified in the preceding sentence.

"(ii) For purposes of clause (i), an individual participating in a community work experience program under section 482 shall be considered to have met the requirement of such clause if he participates for the number of hours in any month equal to the monthly payment of aid to families with dependent children to the family of which he is a member, divided by the greater of the Federal or the applicable State minimum wage (and the portion of such monthly payment for which the State is reimbursed by a child support collection shall not be taken into account in determining the number of hours that such individual may be required to work).

"(B) The requirement under subparagraph (A) shall not be considered to have been met by any State if the requirement is not met with respect to the following percentages of all families in the State eligible for aid to families with dependent children by reason of the unemployment of the parent who is the principal earner:

"(i) 40 percent, in the case of the average of each month in fiscal year 1994,

"(ii) 50 percent, in the case of the average of each month in fiscal year 1995,

"(iii) 60 percent, in the case of the average of each month in fiscal year 1996, and

"(iv) 75 percent in the case of the average of each month in each of the fiscal years 1997 and 1998.

"(C) The percentage of participants for any month in a fiscal year for purposes of the preceding sentence shall equal the average of—

"(i) the number of individuals described in subparagraph (A)(i) who have met the requirement prescribed therein, divided by

"(ii) the total number of principal earners described in such subparagraph (but excluding those in families who have been recipients of aid for 2 months or less if, during the period that the family received aid, at least one parent engaged in intensive job search).

"(D) If the Secretary determines that the State has failed to meet the requirement under subparagraph (A) (determined with respect to the percentages prescribed in subparagraph (B)), he may waive, in whole or in part, any penalty if he finds that—

"(i) the State is operating a program in conformity with section 402(a)(19) and part F,

102 STAT. 2377

Rural areas.

"(ii) the State has made a good faith effort to meet the requirement of subparagraph (A) but has been unable to do so because of economic conditions in the State (including significant numbers of recipients living in remote locations or isolated rural areas where the availability of work sites is severely limited), or because of rapid and substantial increases in the caseload that cannot reasonably be planned for, and

"(iii) the State has submitted a proposal which is likely to achieve the required percentage of participants for the subsequent fiscal years.".

(d) STATE EXPENDITURES TO CARRY OUT INITIAL EVALUATIONS.—Section 403(a)(3)(D) of such Act (as amended by section 202(b)(4) of this Act) is further amended by inserting "(including any amounts expended by the State to carry out initial evaluations under section 486(a))" after "such expenditures". 42 USC 603.

SEC. 202. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REPEAL OF PART C OF TITLE IV.—Part C of title IV of the Social Security Act is repealed. 42 USC 630 *et seq.*

(b) CHANGES IN PART A OF TITLE IV.—(1) Section 402(a)(8)(A)(iv) of such Act is amended by striking "(but excluding" and all that follows and inserting in lieu thereof a semicolon. 42 USC 602.

(2) Section 402(a)(9)(A) of such Act is amended—

(A) by inserting "(including activities under part F)" after "this part"; and

(B) by striking "B, C, or D" and inserting in lieu thereof "B or D".

(3) Section 402(a)(35) of such Act is repealed.

(4) Section 403(a)(3) of such Act is amended—

(A) by striking all of subparagraph (D) that follows "such expenditures" and inserting in lieu thereof "; and"; and

(B) in the matter immediately following subparagraph (D), by striking "services furnished" and all that follows through the semicolon and inserting in lieu thereof "services furnished pursuant to section 402(g);".

(5) Section 403(c) of such Act is repealed.

(6) Section 403(d) of such Act is repealed.

(7) Section 407(b)(2)(A) of such Act is amended by striking "will be certified" and all that follows through "within 30 days" and inserting in lieu thereof "will participate or apply for participation in a program under part F (unless the program is not available in the area where the parent is living) within 30 days". 42 USC 607.

(8) Section 407(b)(2)(C)(i) of such Act is amended—

(A) by striking "section 402(a)(19)(A)" and all that follows through "part C of this title," and inserting in lieu thereof "section 409(a)(19)(C), is not currently participating (or available for participation) in a program under part F,";

(B) by striking "clause (iii)" and inserting in lieu thereof "clause (vii)"; and

(C) by striking "section 432(a)" and inserting in lieu thereof "part F".

(9) Section 407(c) of such Act is amended by striking "to certify such parent" and all that follows and inserting in lieu thereof "to undertake appropriate steps directed toward the participation of such parent in a program under part F.".

(10) Section 407(d)(1) of such Act is amended by striking "participated" and all that follows and inserting in lieu thereof "participated in a program under part F". 42 USC 607.

(11) Section 407(e) of such Act is amended—

(A) by striking "registering pursuant to section 402(a)(19) for the work incentive program established by part C of this title" in clause (1) and inserting in lieu thereof "participating in a program under part F";

(B) by inserting "participate in or" before "register for"; and

(C) by striking "the work incentive program" in clause (2) and inserting in lieu thereof "part F".

(12) Section 409 of such Act is repealed. 42 USC 609.

(13) Section 414 of such Act is repealed. 42 USC 614.

(c) IN OTHER PROVISIONS.—(1) Section 471(a)(8)(A) of such Act is amended by striking "part A, B, C, or D of this title" and inserting in lieu thereof "part A, B, or D of this title (including activities under part F)". 42 USC 671.

(2) Section 1108(a) of such Act (42 U.S.C. 1308(a)) is amended by inserting "or, in the case of part A of title IV, section 403(k)" before "applies" in the matter preceding paragraph (1).

(3) Section 1108(b) of such Act (42 U.S.C. 1308(b)) is amended by striking "and services provided under section 402(a)(19)".

(4) Section 1902(a)(10)(A)(i)(I) of such Act (42 U.S.C. 1396a(a)(10)(A)(i)(I)) is amended by striking "414(g)" and inserting in lieu thereof "482(e)(6)".

42 USC 1396s. (5) Section 1926(a)(1)(D) of such Act, as redesignated by section 303(a) of this Act, is amended by striking "414(g)" and inserting in lieu thereof "482(e)(6)".

26 USC 51. (6) Section 51(c)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "section 414" and inserting "section 482(e)".

SEC. 203. REGULATIONS; PERFORMANCE STANDARDS; STUDIES.

42 USC 681 note. (a) REGULATIONS.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall issue proposed regulations for the purpose of implementing the amendments made by this title, including regulations establishing uniform data collection requirements. The Secretary shall publish final regulations for such purpose not later than one year after the date of the enactment of this Act. Regulations issued under this subsection shall be developed by the Secretary in consultation with the Secretary of Labor and with the responsible State agencies described in section 482(a)(2) of the Social Security Act.

(b) PERFORMANCE STANDARDS.—Part F of title IV of the Social Security Act (as added by section 201(b) of this Act) is amended by adding at the end the following new section:

"PERFORMANCE STANDARDS

42 USC 687. "SEC. 487. (a) Not later than 3 years after the effective date specified in section 204(a) of the Family Support Act of 1988, the Secretary shall—

"(1) in consultation with the Secretary of Labor, representatives of organizations representing Governors, State and local program administrators, educators, State job training coordinating councils, community-based organizations, recipients, and other interested persons, develop performance standards with respect to the programs established pursuant to this part that are based, in part, on the results of the studies conducted under section 203(c) of such Act, and the initial State evaluations (if any) performed under section 486 of this Act; and

102 STAT. 2379

"(2) submit his recommendations for performance standards developed under paragraph (1) to the appropriate committees of jurisdiction of the Congress, which recommendations shall be made with respect to specific measurements of outcomes and be based on the degree of success which may reasonably be expected of States in helping individuals to increase earnings, achieve self-sufficiency, and reduce welfare dependency, and shall not be measured solely by levels of activity or participation.

Performance standards developed under this subsection shall be reviewed periodically by the Secretary and modified to the extent necessary.

"(b) The Secretary may collect information from the States to assist in the development of performance standards under subsection (a), and shall include in his regulations (issued pursuant to section 203(a) of the Family Support Act of 1988 with respect to the program under this part) provisions establishing uniform reporting requirements under which States must furnish periodically information and data, including information and data (for each program activity) on the average monthly number of families assisted, the types of such families, the amounts spent per family, the length of their participation, and such other matters as the Secretary may determine.

"(c) The Secretary shall develop and transmit to the Congress, for appropriate legislative action, a proposal for measuring State progress, providing technical assistance to enable States to meet

performance standards, and modifying the Federal matching rate to reflect the relative effectiveness of the various States in carrying out the program.".

(c) IMPLEMENTATION AND EFFECTIVENESS STUDIES.—(1)(A) The Secretary shall conduct an implementation study in accordance with subparagraph (B). 42 USC 681 note.

(B) The implementation study conducted under subparagraph (A) shall be based on a representative sample of States and localities and shall document with respect to the programs established pursuant to part F of title IV the Social Security Act—

(i) the types, mix, and costs of services offered,

(ii) participation rates or activity levels,

(iii) the characteristics of the individuals in the different type of activities,

(iv) the provisions made for child and day care and the extent to which limitations exist with respect to the availability of such care, Day care.

(v) the institutional arrangements and operating procedures under which activities are offered in the different locations, and

(vi) such other factors as the Secretary deems appropriate.

(C) There is authorized to be appropriated $500,000 for each of the fiscal years 1989, 1990, and 1991 for the purpose of conducting the implementation study under this paragraph. Appropriation authorization.

(2)(A) The Secretary shall conduct a study in accordance with this paragraph to determine the relative effectiveness of the different approaches for assisting long-term and potentially long-term recipients developed by States pursuant to the programs established under part F of title IV of the Social Security Act. 102 STAT. 2380

(B)(i) The study required under subparagraph (A) shall be based on data gathered from demonstration projects conducted in 5 States chosen by the Secretary from among applications submitted by interested States. Such projects shall be conducted for a period of not less than 3 years upon such terms and conditions (including those involving payments to the participating States) as the Secretary may provide.

(ii) A demonstration project conducted under this subparagraph shall use specific outcome measures to test the effectiveness of particular programs. Such measures shall include educational status, employment status, earnings, receipt of aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act, receipt of other transfer payments, and, to the extent possible, the poverty status of participating families.

(iii) A demonstration project conducted under this subparagraph shall use experimental and control groups that are composed of a random sample of participants in the program established under part F of title IV of the Social Security Act. The Secretary shall assure that the experimental design is comparable among localities.

(C) Participating States shall provide to the Secretary in such form and with such frequency as he requires interim data from the demonstration projects conducted under this paragraph. The Secretary shall report to the Congress annually on the progress of such projects and shall, not later than one year after the date of final data collection, submit to the Congress the study required under subparagraph (A). Reports.

(D) There is authorized to be appropriated $5,000,000 for each of the fiscal years 1990 and 1991 for the purpose of making payments to States conducting demonstration projects under this section. Appropriation authorization.

(3) The Secretary shall establish such uniform reporting requirements as the Secretary determines are appropriate for the purpose of conducting the demonstration projects required under this section.

(4) Within 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall convene an advisory panel which may include representatives from the Office of Management and Budget, the Congressional Budget Office, the

Congressional Research Service, and the General Accounting Office, and such other individuals and organizations as the Secretary may determine. The panel shall meet periodically to design, implement, and monitor a series of implementation and evaluation studies to assess the methods and effects of the programs initiated under this Act. Insofar as possible, the panel shall work in a collegial fashion; but if consensus cannot be reached among panel members on particular decisions the Secretary of Health and Human Services is authorized to make all final decisions about program design, use of contractors, conduct of particular studies, and any other matters which may come before the panel.

42 USC 681 note.

(d) STUDY ON APPLICATION OF JOBS PROGRAMS TO INDIANS.—The Secretary of Health and Human Services, in cooperation with the Secretary of the Interior, shall conduct a study of—

102 STAT. 2381

(1) the effectiveness of such employment, training, and education programs for low-income individuals as are specifically directed toward Indians in responding to the needs of Indians on reservations;

(2) the effectiveness of such programs as are not specifically directed toward Indians in responding to such needs;

(3) the extent to which such needs are not met by such programs;

(4) how such programs could be better coordinated in responding to such needs;

(5) how such programs could be improved or restructured to more effectively meet such needs;

(6) what sustainable job markets exist in Indian communities (assessed by tribe and region); and

Transportation.

(7) the availability of such support services (as transportation and child care) as are necessary to assist Indians on reservations in participating in such programs and obtaining permanent employment.

Reports.

The Secretary of Health and Human Services and the Secretary of the Interior shall report to the Congress on the results of the study under this subsection not later than October 1, 1989 (or, if later, one year after the date of the enactment of this Act).

42 USC 681 note.

SEC. 204. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall become effective on October 1, 1990.

(b) SPECIAL RULES.—(1)(A) If any State makes the changes in its State plan approved under section 402 of the Social Security Act that are required in order to carry out the amendments made by this title and formally notifies the Secretary of Health and Human Services of its desire to become subject to such amendments as of the first day of any calendar quarter beginning on or after the date on which the proposed regulations of the Secretary of Health and Human Services are published under section 203(a) (or, if earlier, the date on which such regulations are required to be published under such section) and before October 1, 1990, such amendments shall become effective with respect to that State as of such first day.

(B) In the case of any State in which the amendments made by this title become effective (in accordance with subparagraph (A)) with respect to any quarter of a fiscal year beginning before October 1, 1990, the limitation applicable to the State for the fiscal year under section 403(k)(2) of the Social Security Act (as added by section 201(c)(1) of this Act) shall be an amount that bears the same ratio to such limitation (as otherwise determined with respect to the State for the fiscal year) as the number of quarters in the fiscal year throughout which such amendments apply to the State bears to 4.

(2) Section 403(l)(3) of the Social Security Act (as added by section 201(c)(2) of this Act) is repealed effective October 1, 1995 (except that subparagraph (A) of such section 403(l)(3) shall remain in effect for purposes of applying any reduction in payment rates required by

(b) PAYMENT.—(1) Section 402(g)(3)(A) of such Act (as added by section 301 of this Act) is amended—

(A) by inserting "(i)" after "(A)"; and

(B) by adding at the end the following new clause:

"(ii) In the case of amounts expended for child care pursuant to paragraph (1)(A)(ii) (relating to the provision of child care for certain families which cease to receive aid under this part) by any State to which section 1108 applies, the applicable rate for purposes of section 403(a) shall be the Federal medical assistance percentage (as defined in section 1118).".

(2) Section 403(l)(1)(A) of such Act (as added by section 201(c)(2) of this Act) is amended by striking "402(g)(1)(A)" in the matter preceding clause (i) and inserting in lieu thereof "402(g)(1)(A)(i)".

(c) LIMITATIONS ON ELIGIBILITY.—Section 402(g)(1)(A) of the Social Security Act (as added by section 301 of this Act and as amended by subsection (a)(3) of this section) is amended by adding after clause (ii) the following new clauses:

"(iii) A family shall only be eligible for child care provided under clause (ii) for a period of 12 months after the last month for which the family received aid to families with dependent children under this part.

"(iv) A family shall not be eligible for child care provided under clause (ii) unless the family includes a child who is (or, if needy, children in at least 3 of the 6 months immediately preceding the month in which the family became ineligible for such aid.

"(v) A family shall not be eligible for child care provided under clause (ii) unless the family includes a child who is, (or, if needy, would be) a dependent child.

"(vi) A family shall not be eligible for child care provided under clause (ii) for any month beginning after the caretaker relative who is a member of the family has—

"(I) without good cause, terminated his or her employment; or

"(II) failed to cooperate with the State in establishing and enforcing his or her child support obligations.

"(vii) A family shall contribute to child care provided under clause (ii) in accordance with a sliding scale formula which shall be established by the State agency based on the family's ability to pay.".

(d) STUDY OF WELFARE REQUALIFICATION; REGULATIONS BASED ON RESULTS OF STUDY.—The Secretary of Health and Human Services shall conduct a study to determine whether individuals who ceased receiving aid under the State program of aid to families with dependent children approved under this part have begun again to receive such aid in order to requalify for additional months of transition benefits, and if the study reveals that such is the case, the Secretary shall, not earlier than October 1, 1991, issue regulations which restrict such requalification. 42 USC 602 note.

(e) STUDY ON EFFECTS OF EXTENDING ELIGIBILITY FOR CHILD CARE.—The Secretary of Health and Human Services shall conduct a study on the effectiveness of the amendments made by this section in reducing welfare dependence and assisting families in making the transition from welfare to employment, and such other effects of such amendments as the Secretary may find appropriate, and shall report the results of such study not later than September 30, 1997. Reports. 42 USC 602 note.

SEC. 303. EXTENDED ELIGIBILITY FOR MEDICAL ASSISTANCE.

(a) IN GENERAL.—(1) Title XIX of the Social Security Act, as amended by section 303(a)(1) of the Medicare Catastrophic Coverage Act of 1988, is amended by redesignating section 1925 as section 1926 and by inserting after section 1924 the following new section: 42 USC 1396s.

"EXTENSION OF ELIGIBILITY FOR MEDICAL ASSISTANCE

"SEC. 1925. (a) INITIAL 6-MONTH EXTENSION.— 42 USC 1396r-6.

"(1) REQUIREMENT.—Notwithstanding any other provision of this title, each State plan approved under this title must provide that each family which was receiving aid pursuant to a

plan of the State approved under part A of title IV in at least 3 of the 6 months immediately preceding the month in which such family becomes ineligible for such aid, because of hours of, or income from, employment of the caretaker relative (as defined in subsection (e)) or because of section 402(a)(8)(B)(ii)(II) (providing for a time-limited earned income disregard), shall, subject to paragraph (3) and without any reapplication for benefits under the plan, remain eligible for assistance under the plan approved under this title during the immediately succeeding 6-month period in accordance with this subsection.

"(2) NOTICE OF BENEFITS.—Each State, in the notice of termination of aid under part A of title IV sent to a family meeting the requirements of paragraph (1)—

"(A) shall notify the family of its right to extended medical assistance under this subsection and include in the notice a description of the reporting requirement of subsection (b)(2)(B)(i) and of the circumstances (described in paragraph (3)) under which such extension may be terminated; and

"(B) shall include a card or other evidence of the family's entitlement to assistance under this title for the period provided in this subsection.

"(3) TERMINATION OF EXTENSION.—

"(A) NO DEPENDENT CHILD.—Subject to subparagraphs (B) and (C), extension of assistance during the 6-month period described in paragraph (1) to a family shall terminate (during such period) at the close of the first month in which the family ceases to include a child who is (or would if needy be) a dependent child under part A of title IV.

"(B) NOTICE BEFORE TERMINATION.—No termination of assistance shall become effective under subparagraph (A) until the State has provided the family with notice of the grounds for the termination.

"(C) CONTINUATION IN CERTAIN CASES UNTIL REDETERMINATION.—With respect to a child who would cease to receive medical assistance because of subparagraph (A) but who may be eligible for assistance under the State plan because the child is described in clause (i) or (v) of section 1905(a), the State may not discontinue such assistance under such subparagraph until the State has determined that the child is not eligible for assistance under the plan.

102 STAT. 2386

"(4) SCOPE OF COVERAGE.—

"(A) IN GENERAL.—Subject to subparagraph (B), during the 6-month extension period under this subsection, the amount, duration, and scope of medical assistance made available with respect to a family shall be the same as if the family were still receiving aid under the plan approved under part A of title IV.

"(B) STATE MEDICAID 'WRAP-AROUND' OPTION.—A State, at its option, may pay a family's expenses for premiums, deductibles, coinsurance, and similar costs for health insurance or other health coverage offered by an employer of the caretaker relative or by an employer of the absent parent of a dependent child. In the case of such coverage offered by an employer of the caretaker relative—

"(i) the State may require the caretaker relative, as a condition of extension of coverage under this subsection for the caretaker and the caretaker's family, to make application for such employer coverage, but only if—

"(I) the caretaker relative is not required to make financial contributions for such coverage (whether through payroll deduction, payment of deductibles, coinsurance, or similar costs, or otherwise), and

"(II) the State provides, directly or otherwise, for payment of any of the premium amount, deduct-

ible, coinsurance, or similar expense that the employee is otherwise required to pay; and

"(ii) the State shall treat the coverage under such an employer plan as a third party liability (under section 1902(a)(25)).

Payments for premiums, deductibles, coinsurance, and similar expenses under this subparagraph shall be considered, for purposes of section 1903(a), to be payments for medical assistance.

"(b) ADDITIONAL 6-MONTH EXTENSION.—

"(1) REQUIREMENT.—Notwithstanding any other provision of this title, each State plan approved under this title shall provide that the State shall offer to each family, which has received assistance during the entire 6-month period under subsection (a) and which meets the requirement of paragraph (2)(B)(i), in the last month of the period the option of extending coverage under this subsection for the succeeding 6-month period, subject to paragraph (3).

"(2) NOTICE AND REPORTING REQUIREMENTS.—

"(A) NOTICES.—

"(i) NOTICE DURING INITIAL EXTENSION PERIOD OF OPTION AND REQUIREMENTS.—Each State, during the 3rd and 6th month of any extended assistance furnished to a family under subsection (a), shall notify the family of the family's option for additional extended assistance under this subsection. Each such notice shall include (I) in the 3rd month notice, a statement of the reporting requirement under subparagraph (B)(i), and, 102 STAT. 2387
in the 6th month notice, a statement of the reporting requirement under subparagraph (B)(ii), (II) a statement as to whether any premiums are required for such additional extended assistance, and (III) a description of other out-of-pocket expenses, benefits, reporting and payment procedures, and any pre-existing condition limitations, waiting periods, or other coverage limitations imposed under any alternative coverage options offered under paragraph (4)(D). The 6th month notice under this subparagraph shall describe the amount of any premium required of a particular family for each of the first 3 months of additional extended assistance under this subsection.

"(ii) NOTICE DURING ADDITIONAL EXTENSION PERIOD OF REPORTING REQUIREMENTS AND PREMIUMS.—Each State, during the 3rd month of any additional extended assistance furnished to a family under this subsection, shall notify the family of the reporting requirement under subparagraph (B)(ii) and a statement of the amount of any premium required for such extended assistance for the succeeding 3 months.

"(B) REPORTING REQUIREMENTS.—

"(i) DURING INITIAL EXTENSION PERIOD.—Each State shall require (as a condition for additional extended assistance under this subsection) that a family receiving extended assistance under subsection (a) report to the State, not later than the 21st day of the 4th month in the period of extended assistance under subsection (a), on the family's gross monthly earnings and on the family's costs for such child care as is necessary for the employment of the caretaker relative in each of the first 3 months of that period.

"(ii) DURING ADDITIONAL EXTENSION PERIOD.—Each State shall require that a family receiving extended assistance under this subsection report to the State, not later than the 21st day of the 1st month and of the 4th month in the period of additional extended assistance under this subsection, on the family's gross monthly

such subparagraph for any of the fiscal years specified therein); and section 403(l)(4) of such Act (as so added) is repealed effective October 1, 1998.

(3) Subsections (a), (c), and (d) of section 203 of this Act, and section 486 of the Social Security Act (as added by section 201(b) of this Act), shall become effective on the date of the enactment of this Act.

TITLE III—SUPPORTIVE SERVICES FOR FAMILIES

SEC. 301. CHILD CARE DURING PARTICIPATION IN EMPLOYMENT, EDUCATION, AND TRAINING.

Section 402 of the Social Security Act is amended by adding at the end the following new subsection: 42 USC 602.

"(g)(1)(A) Each State agency must guarantee child care in accordance with subparagraph (B)—

"(i) for each family with a dependent child requiring such care, to the extent that such care is determined by the State agency to be necessary for an individual in the family to accept employment or remain employed; and

"(ii) for each individual participating in an education and training activity (including participation in a program that meets the requirements of subsection (a)(19) and part F) if the State agency approves the activity and determines that the individual is satisfactorily participating in the activity.

"(B) The State agency may guarantee child care by—

"(i) providing such care directly;

"(ii) arranging the care through providers by use of purchase of service contracts, or vouchers; Contracts.

"(iii) providing cash or vouchers in advance to the caretaker relative in the family;

"(iv) reimbursing the caretaker relative in the family; or

"(v) adopting such other arrangements as the agency deems appropriate.

When the State agency arranges for child care, the agency shall take into account the individual needs of the child.

"(C)(i) Subject to clause (ii), the State agency shall make payment for the cost of child care provided with respect to a family in an amount that is the lesser of—

"(I) the actual cost of such care; and

"(II) the dollar amount of the child care disregard for which the family is otherwise eligible under subsection (a)(8)(A)(iii), or (if higher) an amount established by the State.

"(ii) The State agency may not reimburse the cost of child care provided with respect to a family in an amount that is greater than the applicable local market rate (as determined by the State in accordance with regulations issued by the Secretary).

"(D) The State may not make any change in its method of reimbursing child care costs which has the effect of disadvantaging families receiving aid under the State plan on the date of the enactment of this section, by reducing their income or otherwise.

"(E) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for the care) under this paragraph—

"(i) shall not be treated as income for purposes of any other Federal or federally-assisted program that bases eligibility for or the amount of benefits upon need, and

"(ii) may not be claimed as an employment-related expense for purposes of the credit under section 21 of the Internal Revenue Code of 1986.

"(2) In the case of any individual participating in the program under part F, each State agency (in addition to guaranteeing child

102 STAT. 2383

care under paragraph (1)) shall provide payment or reimbursement for such transportation and other work-related expenses (including other work-related supportive services), as the State determines are necessary to enable such individual to participate in such program.

"(3)(A) In the case of amounts expended for child care pursuant to paragraph (1)(A) by any State to which section 1108 does not apply, the applicable rate for purposes of section 403(a) shall be the Federal medical assistance percentage (as defined in section 1905(b)).

"(B) In the case of any amounts expended by the State agency for child care under this subsection, only such amounts as are within such limits as the State may prescribe (subject to the limitations of paragraph (1)(C)) shall be treated as amounts for which payment may be made to a State under this part and they may be so treated only to the extent that—

"(i) such amounts do not exceed the applicable local market rate (as determined by the State in accordance with regulations issued by the Secretary);

"(ii) the child care involved meets applicable standards of State and local law; and

"(iii) in the case of child care, the entity providing such care allows parental access.

Public health and safety.

"(4) The State must establish procedures to ensure that center-based child care will be subject to State and local requirements designed to ensure basic health and safety, including fire safety, protections. The State must also endeavor to develop guidelines for family day care. The State must provide the Secretary with a description of such State and local requirements and guidelines.

Reports. Public health and safety.

"(5) By October 1, 1992, the Secretary shall report to the Congress on the nature and content of State and local standards for health and safety.

Grants.

"(6)(A) The Secretary shall make grants to States to improve their child care licensing and registration requirements and procedures, and to monitor child care provided to children receiving aid under the State plan approved under subsection (a).

"(B) Subject to subparagraph (C), the Secretary shall make grants to each State under subparagraph (A) in proportion to the number of children in the State receiving aid under the State plan approved under subsection (a).

"(C) The Secretary may not make grants to a State under subparagraph (A) unless the State provides matching funds in an amount that is not less than 10 percent of the amount of the grant.

Appropriation authorization.

"(D) For grants under this paragraph, there is authorized to be appropriated to the Secretary $13,000,000 for each of the fiscal years 1990 and 1991.

Handicapped persons.

"(7) Activities under this subsection shall be coordinated in each State with existing early childhood education programs in that State, including Head Start programs, preschool programs funded under chapter 1 of the Education Consolidation and Improvement Act of 1981, and school and nonprofit child care programs (including community-based organizations receiving funds designated for preschool programs for handicapped children).".

SEC. 302. EXTENDED ELIGIBILITY FOR CHILD CARE.

(a) IN GENERAL.—Section 402(g)(1)(A) of the Social Security Act (as added by section 301 of this Act) is amended—

102 STAT. 2384

(1) by inserting "(i)" after "(A)";

(2) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively; and

(3) by adding at the end the following new clause:

"(ii) Each State agency must guarantee child care, subject to the limitations described in this section, to the extent that such care is determined by the State agency to be necessary for an individual's employment in any case where a family has ceased to receive aid to families with dependent children as a result of increased hours of, or increased income from, such employment or by reason of subsection (a)(8)(B)(ii)(II).".

earnings and on the family's costs for such child care as is necessary for the employment of the caretaker relative in each of the 3 preceding months.

"(3) TERMINATION OF EXTENSION.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), extension of assistance during the 6-month period described in paragraph (1) to a family shall terminate (during the period) as follows:

"(i) NO DEPENDENT CHILD.—The extension shall terminate at the close of the first month in which the family ceases to include a child who is (or would if needy be) a dependent child under part A of title IV.

"(ii) FAILURE TO PAY ANY PREMIUM.—If the family fails to pay any premium for a month under paragraph (5) by the 21st day of the following month, the extension shall terminate at the close of that following month, unless the family has established, to the satisfaction of the State, good cause for the failure to pay such premium on a timely basis.

102 STAT. 2388

"(iii) QUARTERLY INCOME REPORTING AND TEST.—The extension under this subsection shall terminate at the close of the 1st or 4th month of the 6-month period if—

"(I) the family fails to report to the State, by the 21st day of such month, the information required under paragraph (2)(B)(ii), unless the family has established, to the satisfaction of the State, good cause for the failure to report on a timely basis;

"(II) the caretaker relative had no earnings in one or more of the previous 3 months, unless such lack of any earnings was due to an involuntary loss of employment, illness, or other good cause established to the satisfaction of the State; or

"(III) the State determines that the family's average gross monthly earnings (less such costs for such child care as is necessary for the employment of the caretaker relative) during the immediately preceding 3-month period exceed 185 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

Classified information.

Information described in clause (iii)(I) shall be subject to the restrictions on use and disclosure of information provided under section 402(a)(9). Instead of terminating a family's extension under clause (iii)(I), a State, at its option, may provide for suspension of the extension until the month after the month in which the family reports information required under paragraph (2)(B)(ii), but only if the family's extension has not otherwise been terminated under subclause (II) or (III) of clause (iii). The State shall make determinations under clause (iii)(III) for a family each time a report under paragraph (2)(B)(ii) for the family is received.

"(B) NOTICE BEFORE TERMINATION.—No termination of assistance shall become effective under subparagraph (A) until the State has provided the family with notice of the grounds for the termination, which notice shall include (in the case of termination under subparagraph (A)(iii)(II), relating to no continued earnings) a description of how the family may reestablish eligibility for medical assistance under the State plan.

"(C) CONTINUATION IN CERTAIN CASES UNTIL REDETERMINATION.—

"(i) DEPENDENT CHILDREN.—With respect to a child who would cease to receive medical assistance because of subparagraph (A)(i) but who may be eligible for assistance under the State plan because the child is

described in clause (i) or (v) of section 1905(a), the State may not discontinue such assistance under such subparagraph until the State has determined that the child is not eligible for assistance under the plan.

"(ii) MEDICALLY NEEDY.—With respect to an individual who would cease to receive medical assistance because of clause (ii) or (iii) of subparagraph (A) but who may be eligible for assistance under the State plan because the individual is within a category of person for which medical assistance under the State plan is available under section 1902(a)(10)(C) (relating to medically needy individuals), the State may not discontinue such assistance under such subparagraph until the State has determined that the individual is not eligible for assistance under the plan.

"(4) COVERAGE.—

"(A) IN GENERAL.—During the extension period under this subsection—

"(i) the State plan shall offer to each family medical assistance which (subject to subparagraphs (B) and (C)) is the same amount, duration, and scope as would be made available to the family if it were still receiving aid under the plan approved under part A of title IV; and

"(ii) the State plan may offer alternative coverage described in subparagraph (D).

"(B) ELIMINATION OF MOST NON-ACUTE CARE BENEFITS.—At a State's option and notwithstanding any other provision of this title, a State may choose not to provide medical assistance under this subsection with respect to any (or all) of the items and services described in paragraphs (4)(A), (6), (7), (8), (11), (13), (14), (15), (16), (18), (20), and (21) of section 1905(a).

"(C) STATE MEDICAID 'WRAP-AROUND' OPTION.—At a State's option, the State may elect to apply the option described in subsection (a)(4)(B) (relating to 'wrap-around' coverage) for families electing medical assistance under this subsection in the same manner as such option applies to families provided extended eligibility for medical assistance under subsection (a).

"(D) ALTERNATIVE ASSISTANCE.—At a State's option, the State may offer families a choice of health care coverage under one or more of the following, instead of the medical assistance otherwise made available under this subsection:

"(i) ENROLLMENT IN FAMILY OPTION OF EMPLOYER PLAN.—Enrollment of the caretaker relative and dependent children in a family option of the group health plan offered to the caretaker relative.

"(ii) ENROLLMENT IN FAMILY OPTION OF STATE EMPLOYEE PLAN.—Enrollment of the caretaker relative and dependent children in a family option within the options of the group health plan or plans offered by the State to State employees.

"(iii) ENROLLMENT IN STATE UNINSURED PLAN.—Enrollment of the caretaker relative and dependent children in a basic State health plan offered by the State to individuals in the State (or areas of the State) otherwise unable to obtain health insurance coverage.

"(iv) ENROLLMENT IN HMO.—Enrollment of the caretaker relative and dependent children in a health maintenance organization (as defined in section 1903(m)(1)(A)) less than 50 percent of the membership (enrolled on a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause). The option of enrollment under this clause is in addition to, and not in lieu of, any enroll-

102 STAT. 2390

ment option that the State might offer under subparagraph (A)(i) with respect to receiving services through a health maintenance organization in accordance with section 1903(m).

If a State elects to offer an option to enroll a family under this subparagraph, the State shall pay any premiums and other costs for such enrollment imposed on the family and may pay deductibles and coinsurance imposed on the family. A State's payment of premiums for the enrollment of families under this subparagraph (not including any premiums otherwise payable by an employer and less the amount of premiums collected from such families under paragraph (5)) and payment of any deductibles and coinsurance shall be considered, for purposes of section 1903(a)(1), to be payments for medical assistance.

"(E) PROHIBITION ON COST-SHARING FOR MATERNITY AND PREVENTIVE PEDIATRIC CARE.—

"(i) IN GENERAL.—If a State offers any alternative option under subparagraph (D) for families, under each such option the State must assure that care described in clause (ii) is available without charge to the families through—

"(I) payment of any deductibles, coinsurance, and other cost-sharing respecting such care, or

"(II) providing coverage under the State plan for such care without any cost-sharing,

or any combination of such mechanisms.

"(ii) CARE DESCRIBED.—The care described in this clause consists of—

"(I) services related to pregnancy (including prenatal, delivery, and post partum services), and

"(II) ambulatory preventive pediatric care (including ambulatory early and periodic screening, diagnosis, and treatment services under section 1905(a)(4)(B)) for each child who meets the age and date of birth requirements to be a qualified child under section 1905(n)(2).

"(5) PREMIUM.—

"(A) PERMITTED.—Notwithstanding any other provision of this title (including section 1916), a State may impose a premium for a family for additional extended coverage under this subsection for a premium payment period (as defined in subparagraph (D)(i)), but only if the family's average gross monthly earnings (less the average monthly costs for such child care as is necessary for the employment of the caretaker relative) for the premium base period exceed 100 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(B) LEVEL MAY VARY BY OPTION OFFERED.—The level of such premium may vary, for the same family, for each option offered by a State under paragraph (4)(D).

"(C) LIMIT ON PREMIUM.—In no case may the amount of any premium under this paragraph for a family for a month in either of the premium payment periods described in subparagraph (D)(i) exceed 3 percent of the family's average gross monthly earnings during the premium base period (as defined in subparagraph (D)(ii)).

102 STAT. 2391

"(D) DEFINITIONS.—In this paragraph:

"(i) A 'premium payment period' described in this clause is a 3-month period beginning with the 1st or 4th month of the 6-month additional extension period provided under this subsection.

"(ii) The term 'premium base period' means, with respect to a particular premium payment period, the

period of 3 consecutive months the last of which is 4 months before the beginning of that premium payment period.

"(c) APPLICABILITY IN STATES AND TERRITORIES.—

"(1) STATES OPERATING UNDER DEMONSTRATION PROJECTS.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115(a), the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

"(2) INAPPLICABILITY IN COMMONWEALTHS AND TERRITORIES.— The provisions of this section shall only apply to the 50 States and the District of Columbia. District of Columbia.

"(d) GENERAL DISQUALIFICATION FOR FRAUD.—

"(1) INELIGIBILITY FOR AID.—This section shall not apply to an individual who is a member of a family which has received aid under part A of title IV if the State makes a finding that, at any time during the last 6 months in which the family was receiving such aid before otherwise being provided extended eligibility under this section, the individual was ineligible for such aid because of fraud.

"(2) GENERAL DISQUALIFICATIONS.—For additional provisions relating to fraud and program abuse, see sections 1128, 1128A, and 1128B. Fraud.

"(e) CARETAKER RELATIVE DEFINED.—In this section, the term 'caretaker relative' has the meaning of such term as used in part A of title IV.

"(f) SUNSET.—This section shall not apply with respect to families that cease to be eligible for aid under part A of title IV after September 30, 1998.".

(2) Section 1902(a) of such Act (42 U.S.C. 1396a(a)), as amended by section 303(e) of the Medicare Catastrophic Coverage Act of 1988, is amended—

(A) by striking "and" at the end of paragraph (50),

(B) by striking the period at the end of paragraph (51) and inserting "; and", and

(C) by inserting after paragraph (51) the following new paragraph:

"(52) meet the requirements of section 1925 (relating to extension of eligibility for medical assistance).".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(e)(1) of such Act (42 U.S.C. 1396a(e)(1)) is amended—

(A) by inserting "subject to subparagraph (B)" after "January 1, 1974,",

(B) by inserting "(A)" after "(e)(1)", and

(C) by adding at the end the following new subparagraph: 102 STAT. 2392

"(B) Subparagraph (A) shall not apply with respect to families that cease to be eligible for aid under part A of title IV during the period beginning on April 1, 1990, and ending on September 30, 1998. During such period, for provisions relating to extension of eligibility for medical assistance for certain families who have received aid pursuant to a State plan approved under part A of title IV and have earned income, see section 1925.".

(2) Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended by striking "or" at the end of clause (vii), by inserting "or" at the end of clause (viii), and by inserting after clause (viii) the following new clause:

"(ix) individuals provided extended benefits under section 1925,".

(3) Paragraph (37) of section 402(a) of such Act is amended to read as follows: 42 USC 602.

"(37) provide that if any family becomes ineligible to receive aid to families with dependent children because of hours of or income from employment of the caretaker relative or because of paragraph (8)(B)(ii)(II), having received such aid in at least 3 of

the 6 months immediately preceding the month in which such ineligibility begins, the family shall remain eligible for medical assistance under the State's plan approved under title XIX for an extended period or periods as provided in section 1925, and that the family will be appropriately notified of such extension (in the State agency's notice to the family of the termination of its eligibility for such aid) as required by section 1925(a)(2);".

42 USC 1396r-6 note.

(c) STUDY AND REPORT.—(1) The Secretary of Health and Human Services shall conduct a study of the impact of the medicaid extension provisions under section 1925 of the Social Security Act, with particular focus on the costs of such provisions and the impact on welfare dependency, and shall report to Congress on the results of such study not later than April 1, 1993.

(2) The study under paragraph (1) shall include an examination of—

(A) the extent to which the availability of extended medicaid benefits affects access to and use of medical services,

(B) the relative effectiveness of different types of coverage provided by States,

(C) the effect of requiring families to pay premiums or incur any other expenses with respect to such extended benefits, and

(D) whether individuals who have exhausted such benefits recycle onto welfare for short periods of time in order to requalify for such extended benefits.

(d) CONFORMING AMENDMENT TO SECTION 403 AMENDMENTS.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraph:

"(10)(A) The fact that an individual, child, or pregnant woman may be denied aid under part A of title IV pursuant to section 402(a)(43) shall not be construed as denying (or permitting a State to deny) medical assistance under this title to such individual, child, or woman who is eligible for assistance under this title on a basis other than the receipt of aid under such part.

"(B) If an individual, child, or pregnant woman is receiving aid under part A of title IV and such aid is terminated pursuant to section 402(a)(43), the State may not discontinue medical assistance under this title for the individual, child, or woman until the State has determined that the individual, child, or woman is not eligible for assistance under this title on a basis other than the receipt of aid under such part.".

102 STAT. 2393

(e) 1-YEAR EXTENSION OF MEDICAID ELIGIBILITY EXTENSION DUE TO COLLECTION OF CHILD OR SPOUSAL SUPPORT.—Section 20(b) of the Child Support Amendments of 1984 (Public Law 98-378) is amended by striking "October 1, 1988" and inserting "October 1, 1989".

42 USC 606 note.

Kentucky.
42 USC 602 note.

(f) EFFECTIVE DATE.—(1) The amendments made by this section (other than subsections (b)(3), (d), and (e)) shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after April 1, 1990 (or, in the case of the Commonwealth of Kentucky, October 1, 1990) (without regard to whether regulations to implement such amendments are promulgated by such date), with respect to families that cease to be eligible for aid under part A of title IV of the Social Security Act on or after such date.

(2)(A) The amendment made by subsection (b)(3) shall become effective on April 1, 1990.

(B) Effective September 30, 1998, the amendment made by subsection (b)(3) is repealed.

42 USC 602.

(C) Section 402(a)(37) of the Social Security Act, as in effect immediately before April 1, 1990, shall become effective on September 30, 1998.

(3) The amendment made by subsection (d) shall become effective on the effective date of section 402(a)(43) of the Social Security Act, as inserted by section 403(a) of this Act.

(4) The amendment made by subsection (e) shall take effect on October 1, 1988.

"(G) $2,800,000 with respect to the fiscal year 1989 and each fiscal year thereafter;"; and

(3) in paragraph (3)—

(A) by striking "or" at the end of subparagraph (E); and

(B) by striking subparagraph (F) and inserting in lieu thereof the following:

"(F) $3,300,000 with respect to each of the fiscal years 1979 through 1988, or

"(G) $3,800,000 with respect to the fiscal year 1989 and each fiscal year thereafter.".

42 USC 1308 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on October 1, 1988.

SEC. 603. ASSISTANT SECRETARY FOR FAMILY SUPPORT.

(a) IN GENERAL.—Part A of title IV of the Social Security Act (as amended by the preceding provisions of this Act) is further amended

102 STAT. 2409

by adding at the end the following new section:

"ASSISTANT SECRETARY FOR FAMILY SUPPORT

President of U.S.

"SEC. 418. The programs under this part, part D, and part F shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law.".

(b) COMPENSATION.—Section 5315 of title 5, United States Code, is amended by striking "(4)" at the end of the item relating to Assistant Secretaries of Health and Human Services and inserting in lieu thereof "(5)".

42 USC 618 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on February 1, 1989.

SEC. 604. RESPONSIBILITIES OF THE STATE.

(a) IN GENERAL.—Section 402(a) of the Social Security Act (as amended by sections 201(a), 401(a), 401(f), and 403(a) of this Act) is amended—

(1) by striking "and" at the end of paragraph (42);

(2) by striking the period at the end of paragraph (43) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (43) the following new paragraph:

"(44) provide that the State agency shall—

"(A) be responsible for assuring that the benefits and services under the programs under this part, part D, and part F are furnished in an integrated manner, and

"(B) consistent with the provisions of this title, ensure that all applicants for and recipients of aid to families with dependent children are encouraged, assisted, and required to cooperate in the establishment of paternity and the enforcement of child support obligations, and are notified of the paternity establishment and child support services for which they may be eligible.".

42 USC 602 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on July 1, 1989.

SEC. 605. ESTABLISHMENT OF PREELIGIBILITY FRAUD DETECTION MEASURES.

(a) IN GENERAL.—Section 402(a) of the Social Security Act (as amended by sections 201(a), 401(a), 401(f), 403(a), and 604(a) of this Act) is amended—

(1) by striking "and" at the end of paragraph (43);

(2) by striking the period at the end of paragraph (44) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (44) the following new paragraph:

SEC. 304. EFFECTIVE DATES.

42 USC 602 note.

(a) CHILD CARE FOR PARTICIPANTS IN EMPLOYMENT, EDUCATION, AND TRAINING.—The amendment made by section 301 shall become effective with respect to a State on the date the amendments made by title II become effective with respect to the State.

(b) TRANSITIONAL CHILD CARE.—(1) The amendments made by section 302 shall become effective on April 1, 1990.

(2) Effective September 30, 1998, the amendments made by section 302 are repealed.

TITLE IV—RELATED AFDC AMENDMENTS

SEC. 401. BENEFITS FOR TWO-PARENT FAMILIES.

(a) MANDATORY EXPANSION OF COVERAGE.—(1) Section 402(a) of the Social Security Act (as amended by section 201(a) of this Act) is amended—

(A) by striking "and" after the semicolon at the end of paragraph (39);

(B) by striking the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(C) by inserting immediately after paragraph (40) the following new paragraph:

"(41) provide that aid to families with dependent children will be provided under the plan with respect to dependent children of unemployed parents in accordance with section 407.".

(2)(A) Section 402(a)(38)(B) of such Act is amended by striking "(if such section is applicable to the State)".

102 STAT. 2394

(B) Section 407(b) of such Act is amended by striking "(b) The provisions" and all that follows through "(1) requires" and inserting in lieu thereof the following:

42 USC 607.

"(b) In providing for the provision of aid to families with dependent children under the State's plan approved under section 402, in the case of families that include dependent children within the meaning of subsection (a) of this section, as required by section 402(a)(41), the State's plan—

"(1) shall require".

(C) Section 407(b)(2) of such Act is amended by striking "provides—" and inserting in lieu thereof "shall provide—".

(b) STATE FLEXIBILITY IN STRUCTURING TWO-PARENT FAMILY PROGRAM.—(1) Section 407(b) of such Act (as amended by subsection (a) of this section) is amended—

(A)(i) by inserting "(1)" after "(b)";

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(iii) by redesignating subparagraphs (A), (B), and (C) of such paragraph (1) as clauses (i), (ii), and (iii), respectively;

(iv) by redesignating subparagraphs (A), (B), (C), and (D) of such paragraph (2) as clauses (i), (ii), (iii), and (iv), respectively; and

(v) by redesignating clauses (i) and (ii) of subparagraph (C) of both such paragraphs (1) and (2) as subclauses (I) and (II), respectively;

(B) in paragraph (1)(A) (as so redesignated by subparagraph (A) of this paragraph, and as amended by subsection (a)(2)(A) of this section before such redesignation), by inserting "subject to paragraph (2)," before "shall require"; and

(C) by adding at the end the following new paragraph:

"(2)(A) In carrying out the program under this section, a State may design its program to reflect the individual needs of the State and to emphasize education, training, and employment services for unemployed parents and their spouses who are eligible for aid to families with dependent children by reason of this section, to the extent provided under this paragraph.

"(B)(i) Subject to clauses (ii) and (iii), with respect to the requirement under section 402(a)(41), a State may, at its option, limit the

number of months with respect to which a family receives aid to families with dependent children to the extent determined appropriate by the State for the operation of its program under this section.

"(ii)(I) A State may not limit the number of months under clause (i) for which a family may receive aid to families with dependent children unless it provides in its plan assurances to the Secretary that it has a program (that meets such requirements as the Secretary may in regulation prescribe) for providing education, training, and employment services (including any activity authorized under section 402(a)(19) or under part F) in order to assist parents of children described in subsection (a) in preparing for and obtaining employment.

"(II) In exercising the option under clause (i), a State plan may not provide for the denial of aid to families with dependent children to a family otherwise eligible for such aid for any month unless the family has received such aid (on the basis of the unemployment of the parent who is the principal earner) in at least 6 of the preceding 12 months.

102 STAT. 2395

"(iii) Each State which, on September 26, 1988, has a program in effect under this section shall continue to operate such program without a time limitation.

"(C) With respect to the participation in the program under section 402(a)(19) and part F of a family eligible for aid to families with dependent children by reason of this section, a State may, at its option—

"(i) except as otherwise provided in such section and such part, require that any parent participating in such program engage in program activities for up to 40 hours per week; and

"(ii) provide for the payment of aid to families with dependent children at regular intervals of no greater than one month but after the performance of assigned program activities.".

(2) Section 402(a)(19)(B)(i)(II) of such Act (as added by the amendment made by section 201(a) of this Act) is amended by inserting "(and individuals who would be recipients of such aid if the State had not exercised the option under section 407(b)(2)(B)(i))" after "children".

42 USC 602.

(3)(A) Section 407(b)(1)(B) of such Act (as so redesignated by paragraph (1)(A) of this subsection) is amended by striking "paragraph (1)(A)" each place it appears and inserting in lieu thereof "subparagraph (A)(i)".

42 USC 607.

(B) Section 407(c) of such Act is amended—

(i) by striking "subparagraph (A) of subsection (b)(1)" and inserting in lieu thereof "subsection (b)(1)(A)(i)";

(ii) by striking "subparagraph (B) of such subsection" and inserting in lieu thereof "subsection (b)(1)(A)(ii)"; and

(iii) by striking "subparagraph (A) of subsection (b)(2)" and inserting in lieu thereof "subsection (b)(1)(B)(i)".

(C) Section 407(d)(3) of such Act is amended by striking "section 407(b)(1)(C)" and inserting in lieu thereof "subsection (b)(1)(A)(iii)".

(c) PARTICIPATION IN TRAINING AND EDUCATION PROGRAMS AS A QUARTER OF WORK.—(1) Section 407(d)(1) of such Act is amended—

(A) by inserting "(A)" after "means a calendar quarter"; and

(B) by inserting before the semicolon at the end the following: ", or (B) at the option of the State, a calendar quarter in which such individual attended, full-time, an elementary school, a secondary school, or a vocational or technical training course (approved by the Secretary) that is designed to prepare the individual for gainful employment, or in which such individual participated in an education or training program established under the Job Training Partnership Act".

(2) Section 407(d) of such Act is amended by adding at the end the following new sentence:

"Notwithstanding section 402(a)(1), a State that chooses to exercise the option provided under paragraph (1)(B) may provide that the definition of calendar quarter under such option apply in one or more political subdivisions of the State.".

(3) Section 407(b)(1)(A)(iii)(I) of such Act (as so redesignated by subsection (b)(1)(A) of this section) is amended by inserting ", no more than 4 of which may be quarters of work defined in subsection (d)(1)(B)," after "(d)(1))".

(4)(A) Section 407(b)(2)(B)(ii) of such Act (as added by the amendment made by subsection (b)(1)(C) of this section) is amended by adding at the end the following new subclause:

"(III) Any family that is otherwise eligible for aid to families with dependent children that does not receive such aid in any month solely by reason of the State exercising the option under clause (i) shall be deemed, for purposes of determining the period under paragraph (1)(A)(iii)(I), to be receiving such aid in such month.".

102 STAT. 2396

(B) Section 407(d)(1) of such Act (as amended by paragraph (1) of this subsection) is amended by striking "a community work experience" and all that follows through the semicolon and inserting in lieu thereof "the program under section 402(a)(19) and part F;".

42 USC 607.

(d) EXPANSION OF MEDICAID COVERAGE FOR TWO-PARENT FAMILIES.—(1) Section 1902(a)(10)(A)(i) of such Act is amended—

42 USC 1396a.

(A) by striking "or" at the end of subclause (III),

(B) by adding "or" at the end of subclause (IV), and

(C) by adding at the end the following new subclause:

"(V) who are qualified family members as defined in section 1905(m)(1);".

(2) Section 1905 of such Act is amended by inserting after subsection (l) the following new subsection:

42 USC 1396d.

"(m)(1) Subject to paragraph (2), the term 'qualified family member' means an individual (other than a qualified pregnant woman or child, as defined in subsection (n)) who is a member of a family that would be receiving aid under the State plan under part A of title IV pursuant to section 407 if the State had not exercised the option under section 407(b)(2)(B)(i).

"(2) No individual shall be a qualified family member for any period after September 30, 1998.".

Effective date.

(e) EVALUATION AND REPORT.—(1) The Secretary of Health and Human Services shall evaluate the time-limited and conventional State programs conducted under section 407 of the Social Security Act (as amended by this section), including the effects of the work requirement applicable to families receiving benefits under such section.

42 USC 607 note.

(2) The Secretary shall, not later than July 1, 1996, submit to the Congress an interim report containing the findings of such evaluation together with recommendations for any changes in such program, and shall, not later than July 1, 1998, submit to the Congress a final report containing such findings and recommendations.

(f) Section 402(a) of such Act (as amended by sections 201(a) and 401(a) of this Act) is amended—

42 USC 602.

(1) by striking "and" at the end of paragraph (40);

(2) by striking the period at the end of paragraph (41) and inserting "; and"; and

(3) by inserting immediately after paragraph (41) the following new paragraph:

"(42) provide that if, under section 407(b)(2)(B)(i), the State limits the number of months for which a family may receive aid to families with dependent children, the State shall provide medical assistance to all members of the family under the State's plan approved under title XIX, without time limitation.

(g) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), and in section 1905(m)(2) of the Social Security Act (as added by subsection (d)(2) of this section), the amendments made by this section shall become effective on October 1, 1990.

42 USC 602 note.

(2) The amendments made by this section shall not become effective with respect to Puerto Rico, American Samoa, Guam, or the Virgin Islands, until October 1, 1992.

Territories, U.S.

(h) TERMINATION.—Effective September 30, 1998, the amendments made by this section (other than by subsection (d)) are repealed, and the provisions of law so amended (as in effect immediately before

42 USC 602 and note, 607.

102 STAT. 2397 the effective date of such amendments) shall apply as if such amendments had never been made.

SEC. 402. CHANGES IN EARNED INCOME DISREGARDS.

(a) LIMIT ON DISREGARD OF CHILD CARE COSTS INCREASED; CHILD CARE DISREGARD TO BE APPLIED LAST.—Section 402(a)(8)(A)(iii) of the Social Security Act is amended— 42 USC 602.

(1) by inserting "after applying the other clauses of this subparagraph," before "shall disregard";

(2) by striking "$160" and inserting in lieu thereof "$175"; and

(3) by inserting before the semicolon ", or, in the case such child is under age 2, $200".

(b) STANDARD DISREGARD INCREASED.—Section 402(a)(8)(A)(ii) of such Act is amended by striking "$75" and inserting in lieu thereof "$90".

(c) DISREGARD OF ADVANCE PAYMENTS OR REFUND OF EARNED INCOME TAX CREDIT.—(1) Section 402(a)(8)(A) of such Act is amended—

(A) by striking "and" at the end of clause (vi); and

(B) by adding at the end the following new clause:

"(viii) shall disregard any refund of Federal income taxes made to a family receiving aid to families with dependent children by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) and any payment made to such a family by an employer under section 3507 of such Code (relating to advance payment of earned income credit); and".

(2)(A) Section 402(d) of such Act is repealed.

(B) Section 402(a)(30) of such Act is amended by striking "subsection (d)" and inserting in lieu thereof "subsection (e)".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1989. 42 USC 602 note.

SEC. 403. HOUSEHOLDS HEADED BY MINOR PARENTS.

(a) IN GENERAL.—Section 402(a) of the Social Security Act (as amended by sections 201(a), 401(a), and 401(f) of this Act) is amended—

(1) by striking "and" at the end of paragraph (41);

(2) by striking the period at the end of paragraph (42) and inserting "; and"; and

(3) by inserting immediately after paragraph (42) the following new paragraph:

"(43) at the option of the State, provide that—

"(A) subject to subparagraph (B), in the case of any individual who is under the age of 18 and has never married, and who has a dependent child in his or her care (or is pregnant and is eligible for aid to families with dependent children under the State plan)—

"(i) such individual may receive aid to families with dependent children under the plan for the individual and such child (or for herself in the case of a pregnant woman) only if such individual and child (or such pregnant woman) reside in a place of residence maintained by a parent, legal guardian, or other adult relative of such individual as such parent's, guardian's, or adult relative's own home, or reside in a foster home, maternity home, or other adult-supervised supportive living arrangement; and

102 STAT. 2398

"(ii) such aid (where possible) shall be provided to the parent, legal guardian, or other adult relative on behalf of such individual and child; and

"(B) subparagraph (A) does not apply in the case where—

"(i) such individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;

"(ii) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;

"(iii) the State agency determines that the physical or emotional health or safety of such individual or such dependent child would be jeopardized if such individual and such dependent child lived in the same residence with such individual's own parent or legal guardian;

"(iv) such individual lived apart from his or her own parent or legal guardian for a period of at least one year before either the birth of any such dependent child or the individual having made application for aid to families with dependent children under the plan; or

"(v) the State agency otherwise determines (in accordance with regulations issued by the Secretary) that there is good cause for waiving such subparagraph.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on the first day of the first calendar quarter to begin one year or more after the date of the enactment of this Act. 42 USC 602 note.

SEC. 404. PERIODIC REEVALUATION OF NEED AND PAYMENT STANDARDS.

(a) IN GENERAL.—Section 402 of the Social Security Act (as amended by section 301 of this Act) is amended by adding at the end the following new subsection:

"(h)(1) Each State shall reevaluate the need standard and payment standard under its plan at least once every 3 years, in accordance with a schedule established by the Secretary, and report the results of the reevaluation to the Secretary and the public at such time and in such form and manner as the Secretary may require. Reports. Public information.

"(2) The report required by paragraph (1) shall include a statement of—

"(A) the manner in which the need standard of the State is determined,

"(B) the relationship between the need standard and the payment standard (expressed as a percentage or in any other manner determined by the Secretary to be appropriate), and

"(C) any changes in the need standard or the payment standard in the preceding 3-year period.

"(3) The Secretary shall report promptly to the Congress the results of the reevaluations required by paragraph (1).". Reports.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of the enactment of this Act. 42 USC 602 note.

102 STAT. 2399

SEC. 405. CBO STUDY ON IMPLEMENTATION OF NATIONAL MINIMUM PAYMENT STANDARD.

(a) IN GENERAL.—The Congressional Budget Office shall conduct a study on the implementation of the amendments proposed by section 101 of the bill introduced in the Senate of the United States during the 100th Congress and designated S. 862 (relating to the requirement of a minimum payment standard under part A of title IV of the Social Security Act with a Federal matching rate of 90 percent).

(b) DESCRIPTION OF STUDY.—The study conducted under subsection (a) shall assess the extent to which—

(1) the goal of budget neutrality may be preserved by repealing the programs included in, but not limited to, the programs described in the amendments proposed by section 301 of the bill described in subsection (a) over a more gradual period of time in conjunction with corresponding increases (up to 90 percent) in the Federal matching rates under part A of title IV, and title XIX, of the Social Security Act; and

(2) the effects on local governments of repealing Federal programs could be mitigated by providing, over a period of time

that corresponds with more gradual increases in the Federal matching rates under such part A and title XIX, general revenue supplements to those localities with the lowest levels of fiscal capacity and pass-throughs to units of local government.

(c) REPORT TO CONGRESS.—The Congressional Budget Office shall report on the results of the study conducted under this section not later than 12 months after the date of the enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

42 USC 602 note.

SEC. 406. STUDY OF NEW NATIONAL APPROACHES TO WELFARE BENEFITS FOR LOW-INCOME FAMILIES WITH CHILDREN.

Contracts.

(a) IN GENERAL.—The Secretary of Health and Human Services shall enter into a contract or arrangement with the National Academy of Sciences for the study of a new national system of welfare benefits for low-income families with children, giving particular attention to what an appropriate national minimum benefit might be and how it should be calculated. The study shall give consideration to alternative minimum benefit proposals including proposals for benefits based on a family living standard, on weighted national median income, on State median income, and on the poverty level, and shall take into account the probable impact of a national minimum benefit on individuals and on State and local governments.

(b) METHODOLOGY.—(1) The study under this section shall include the development of a uniform national methodology which could be used to calculate State-specific family living standards and benefits based on other minimum benefit proposals.

(2) The methodology so developed shall be designed to identify a single uniform measure suitable for application in each State, and shall—

(A) take into account actual living costs in each State while permitting variances in such costs as between the different geographic areas of the State;

(B) take into account variations in actual living costs in each State for families of different sizes and composition; and

102 STAT. 2400

(C) specify an effective process for reassessing and updating both the methodology and the resulting family living standards and benefits based on other minimum benefit policies at least once every 4 years.

(3) The methodology so developed shall reflect the costs of basic necessities including housing, furnishings, food, clothing, transportation, utilities, and other maintenance items; and the study shall take into account variations in costs for different geographic areas of the State where such costs may be substantially different, and variations in costs for families of different sizes and composition.

(c) OTHER CONSIDERATIONS; PROGRESSION TO PROPOSED MINIMUM BENEFIT LEVELS.—In order to assess the implications of States moving to a new system of welfare benefits, the study shall include an analysis of the relationship between a State's fiscal capacity and other circumstances and constraints and the application of a full family living standard or other minimum benefit policy. The study shall propose a formula designed to achieve a uniform progression from the level of assistance currently being provided for low-income families with children under the AFDC program, the food stamp program, and the low-income energy assistance program, by each State, to a level based on the full family living standard or other minimum benefit policy for that State. For this purpose the Secretary shall define the term "low-income families with children" in a manner which reflects all families that include dependent children as defined for purposes of the AFDC program.

(d) REPORT AND RECOMMENDATIONS.—The Academy shall report its recommendations resulting from the study under this section to the Secretary no later than 24 months after the date of the enactment of this Act; and the Secretary shall promptly transmit such recommendations to the Congress.

(e) AUTHORIZATION OF FUNDS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE V—DEMONSTRATION PROJECTS

SEC. 501. FAMILY SUPPORT DEMONSTRATION PROJECTS.

Grants.
42 USC 1315 note.

(a) DEMONSTRATION PROJECTS TO TEST THE EFFECT OF EARLY CHILDHOOD DEVELOPMENT PROGRAMS.—(1) In order to test the effect of in-home early childhood development programs and pre-school center-based development programs (emphasizing the use of volunteers and including academic credit for student volunteers) on families receiving aid under State plans approved under section 402 of the Social Security Act and participating in the job opportunities and basic skills training program under part F of title IV of such Act, up to 10 States may undertake and carry out demonstration projects utilizing such development programs to enhance the cognitive skills and linguistic ability of children under the age of 5, to improve the communications skills of such children, and to develop their ability to read, write, and speak the English language effectively. Such projects may include parents along with their eligible children in family-centered education programs that assist children directly in achieving the goals stated in the preceding sentence and also help parents contribute to the proper development and education of their young children. Demonstration projects under this subsection shall meet such conditions and requirements as the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall prescribe, and no such project shall be conducted for a period of more than 3 years.

102 STAT. 2401

(2) The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this subsection, shall approve up to 10 applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this subsection, and shall make grants to the States whose applications are approved to assist them in carrying out such projects.

(3) The Secretary shall submit to the Congress with respect to each project undertaken by a State under this subsection, after such project has been carried out for one year and again when such project is completed, a detailed evaluation of the project and of its contribution to the achievement of the purpose of this subsection.

(b) STATE DEMONSTRATION PROJECTS TO ENCOURAGE INNOVATIVE EDUCATION AND TRAINING PROGRAMS FOR CHILDREN.—In order to encourage States to develop innovative education and training programs for children receiving aid under State plans approved under section 402 of the Social Security Act, any State may establish and conduct one or more demonstration projects, targeted to such children, designed to test financial incentives and interdisciplinary approaches to reducing school dropouts, encouraging skill development, and avoiding welfare dependence; and the Secretary may make grants to States to assist in financing such projects. Demonstration projects under this subsection shall meet such conditions and requirements as the Secretary shall prescribe, and no such project shall be conducted for a period of less than one year or more than 5 years.

(c) DEMONSTRATIONS TO ENSURE LONG TERM FAMILY SELF-SUFFICIENCY THROUGH COMMUNITY-BASED SERVICES.—Any State, using funds made available to it from appropriations made pursuant to subsection (d) in conjunction with its other resources, may conduct demonstrations to test more effective methods of providing coordination and services to ensure long term family self-sufficiency through community-based comprehensive family support services involving a partnership between the State agency administering or supervising the administrating of the State's plan under section 402 of the Social Security Act and community-based organizations having experience and demonstrated effectiveness in providing services.

SEC. 507. EXTENSION OF MINNESOTA PREPAID MEDICAID DEMONSTRATION PROJECT.

Upon application by the State of Minnesota, the Secretary of Health and Human Services shall extend until June 30, 1990, the waiver granted to such State under section 1115(a) of the Social Security Act to conduct a prepaid medicaid demonstration project.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. INCLUSION OF AMERICAN SAMOA AS A STATE UNDER TITLE IV.

(a) IN GENERAL.—The last sentence of section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) is amended to read as follows: "Such term when used in title IV also includes American Samoa.".

(b) LIMITATION ON PAYMENTS TO AMERICAN SAMOA.—Section 1108 of such Act (42 U.S.C. 1308) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) The total amount certified by the Secretary under parts A and E of title IV with respect to a fiscal year for payment to American Samoa (exclusive of any amounts on account of services and items to which, in the case of part A of such title, section 403(k) applies) shall not exceed $1,000,000.".

(c) CONFORMING AMENDMENTS.—(1) Section 403 of such Act (42 U.S.C. 603) is amended— 102 STAT. 2408

(A) in paragraphs (1) and (2) of subsection (a), by striking "and Guam," each place it appears and inserting in lieu thereof "Guam, and American Samoa,"; and

(B) in subsections (i)(4) and (j), by striking "or the Virgin Islands" and inserting in lieu thereof "the Virgin Islands, or American Samoa".

(2) The heading of section 1108 of such Act (42 U.S.C. 1308) is amended to read as follows:

"LIMITATION ON PAYMENTS TO PUERTO RICO, THE VIRGIN ISLANDS, GUAM, AND AMERICAN SAMOA".

(3) The last sentence of section 1118 of such Act (42 U.S.C. 1318) is amended by inserting before the period the following: ", and shall, in the case of American Samoa, mean 75 per centum with respect to part A of title IV".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1988. 42 USC 603 note.

SEC. 602. INCREASE IN AMOUNT AVAILABLE FOR PAYMENT TO PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM.

(a) IN GENERAL.—Section 1108(a) of the Social Security Act (42 U.S.C. 1308(a)) is amended—

(1) in paragraph (1)—

(A) by striking "or" at the end of subparagraph (E); and

(B) by striking subparagraph (F) and inserting in lieu thereof the following:

"(F) $72,000,000 with respect to each of the fiscal years 1979 through 1988, or

"(G) $82,000,000 with respect to the fiscal year 1989 and each fiscal year thereafter;";

(2) in paragraph (2)—

(A) by striking "or" at the end of subparagaph (E); and

(B) by striking subparagraph (F) and inserting in lieu thereof the following:

"(F) $2,400,000 with respect to each of the fiscal years 1979 through 1988, or

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants to States to conduct demonstration projects under this section, there is authorized to be appropriated not to exceed $6,000,000 for each of the fiscal years 1990, 1991, and 1992.

Grants.
42 USC 1315 note.

SEC. 502. DEMONSTRATION PROJECTS TO ENCOURAGE STATES TO EMPLOY PARENTS RECEIVING AFDC AS PAID CHILD CARE PROVIDERS.

(a) IN GENERAL.—In order to encourage States to employ or arrange for the employment of parents of dependent children receiving aid under State plans approved under section 402(a) of the Social Security Act as providers of child care for other children receiving such aid, up to 5 States may undertake and carry out demonstration projects designed to test whether such employment will effectively facilitate the conduct of the job opportunities and basic skills training program under part F of title IV of such Act by making additional child care services available to meet the requirements of
102 STAT. 2402 section 402(g)(1)(A) of such Act while affording significant numbers of families receiving such aid a realistic opportunity to avoid welfare dependence through employment as a child care provider.

(b) CONSIDERATION OF APPLICATIONS.—The Secretary of Health and Human Services shall consider all applications received from States desiring to conduct demonstration projects under this section, shall approve up to 5 applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this section, and shall make grants to those States the applications of which are approved to assist them in carrying out such projects. Each project conducted under this section shall meet such conditions and requirements as the Secretary shall prescribe.

(c) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants to States to carry out demonstration projects under this section, there is authorized to be appropriated not to exceed $1,000,000 for each of the fiscal years 1990, 1991, and 1992.

(d) EFFECTIVE DATE.—This section shall become effective on October 1, 1989.

Contracts.

SEC. 503. DEMONSTRATION PROJECTS TO TEST ALTERNATIVE DEFINITIONS OF UNEMPLOYMENT.

42 USC 1315.

Section 1115 of the Social Security Act is amended by adding at the end the following new subsection:

"(d)(1)(A) The Secretary shall enter into agreements with up to 8 States submitting applications under this subsection for the purpose of conducting demonstration projects in such States to test and evaluate the use, with respect to individuals who received aid under part A of title IV in the preceding month (on the basis of the unemployment of the parent who is the principal earner), of a number greater than 100 for the number of hours per month that such individuals may work and still be considered to be unemployed for purposes of section 407. If any State submits an application under this subsection for the purpose of conducting a demonstration project to test and evaluate the total elimination of the 100-hour rule, the Secretary shall approve at least one such application.

"(B) If any State with an agreement under this subsection so requests, the demonstration project conducted pursuant to such agreement may test and evaluate the complete elimination of the 100-hour rule and of any other durational standard that might be applied in defining unemployment for purposes of determining eligibility under section 407.

"(2) Notwithstanding section 402(a)(1), a demonstration project conducted under this subsection may be conducted in one or more political subdivisions of the State.

"(3) An agreement under this subsection shall be entered into between the Secretary and the State agency designated under section 402(a)(3). Such agreement shall provide for the payment of aid under the applicable State plan under part A of title IV as though

section 407 had been modified to reflect the definition of unemployment used in the demonstration project but shall also provide that such project shall otherwise be carried out in accordance with all of the requirements and conditions of section 407 (and, except as provided in paragraph (2), any related requirements and conditions under part A of title IV).

"(4) A demonstration project under this subsection may be commenced any time after September 30, 1990, and shall be conducted for such period of time as the agreement with the Secretary may provide; except that, in no event may a demonstration project under this section be conducted after September 30, 1995.

"(5)(A) Any State with an agreement under this subsection shall evaluate the comparative cost and employment effects of the use of the definition of unemployment in its demonstration project under this section by use of experimental and control groups comprised of a random sample of individuals receiving aid under section 407 and shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of the project conducted by the State.

"(B) The Secretary shall report the results of the demonstration projects conducted under this subsection to the Congress not later than 6 months after all such projects are completed.". Reports.

SEC. 504. DEMONSTRATION PROJECTS TO ADDRESS CHILD ACCESS PROBLEMS. 42 USC 1315 note.

(a) IN GENERAL.—Any State may establish and conduct one or more demonstration projects (in accordance with such terms, conditions, and requirements as the Secretary of Health and Human Services shall prescribe, except that no such project may include the withholding of aid to families with dependent children pending visitation) to develop, improve, or expand activities designed to increase compliance with child access provisions of court orders.

(b) ACTIVITIES UNDER PROJECT.—Activities that may be funded by a grant under this section include (whether conducted through the executive, legislative, or judicial branches of the State) the development of systematic procedures for enforcing access provisions of court orders, the establishment of special staffs to deal with and mediate disputes involving access (both before and after a court order has been issued), and the dissemination of information to parents. Grants. Public information.

(c) OTHER REQUIREMENTS.—In the case of any experimental, pilot, or demonstration project undertaken under this section, the project—

(1) must be designed to improve the financial well-being of families with children or otherwise improve the operation of the program or programs involved; and

(2) may not permit modifications in any program which would have the effect of disadvantaging children in need.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants to States to assist in financing the projects established under this section, there is authorized to be appropriated not to exceed $4,000,000 for each of the fiscal years 1990 and 1991. Grants.

(e) REPORT.—Not later than July 1, 1992, the Secretary of Health and Human Services shall submit to the Congress a report on the effectiveness of the demonstration projects established under this section in—

(1) decreasing the time required for the resolution of disputes related to child access,

(2) reducing litigation relating to access disputes, and

(3) improving compliance with court-ordered child support payments.

Contracts.
42 USC 1315
note.

SEC. 505. DEMONSTRATION PROJECTS TO EXPAND THE NUMBER OF JOB OPPORTUNITIES AVAILABLE TO CERTAIN LOW-INCOME INDIVIDUALS.

102 STAT. 2404

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into agreements with not less than 5 nor more than 10 nonprofit organizations (including community development corporations) submitting applications under this section for the purpose of conducting demonstration projects in accordance with subsection (b) to create employment opportunities for certain low-income individuals.

(b) NATURE OF PROJECT.—(1) Each nonprofit organization conducting a demonstration project under this section shall provide technical and financial assistance to private employers in the community to assist them in creating employment and business opportunities for those individuals eligible to participate in the projects as described in this subsection.

(2) For purposes of this section, a nonprofit organization is any organization (including a community development corporation) exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 by reason of paragraph (3) or (4) of section 501(c) of such Code.

(3) A low-income individual eligible to participate in a project conducted under this section is any individual eligible to receive aid to families with dependent children under part A of title IV of the Social Security Act and any other individual whose income level does not exceed 100 percent of the official poverty line as defined by the Office of Management and Budget and revised in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

(c) CONTENT OF APPLICATIONS; SELECTION PRIORITY.—(1) Each nonprofit organization submitting an application under this section shall, as part of such application, describe—

(A) the technical and financial assistance that will be made available under the project conducted under this section;

(B) the geographic area to be served by the project;

(C) the percentage of low-income individuals (as described in subsection (b)) and individuals receiving aid to families with dependent children under title IV of the Social Security Act in the area to be served by the project; and

(D) unemployment rates in the geographic areas to be served and (to the extent practicable) the jobs available and skills necessary to fill those vacancies in such areas.

(2) In approving applications under this section, the Secretary shall give priority to applications proposing to serve those areas containing the highest percentage of individuals receiving aid to families with dependent children under title IV of such Act.

(d) ADMINISTRATION.—Each nonprofit organization participating in a demonstration project conducted under this section shall provide assurances in its agreement with the Secretary that it has or will have a cooperative relationship with the agency responsible for administering the job opportunities and basic skills training program (as provided for under title IV of the Social Security Act) in the area served by the project.

(e) DURATION.—Each demonstration project conducted under this section shall be commenced not later than September 30, 1989, and shall be conducted for a 3-year period; except that the Secretary may terminate a project before the end of such period if he determines that the nonprofit organization conducting the project is not in substantial compliance with the terms of the agreement entered into with the Secretary under this section.

102 STAT. 2405

(f) EVALUATION AND REPORT.—(1) The Secretary shall conduct an evaluation of the success of each demonstration project conducted under this section in creating job opportunities and may require each nonprofit organization conducting such a project to provide the Secretary with such information as the Secretary determines is necessary to prepare the report described in paragraph (2).

(2) Not later than January 1, 1993, the Secretary shall submit to the Congress a report containing a summary of the evaluations conducted under paragraph (1), together with such recommendations as the Secretary determines are appropriate.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants to conduct demonstration projects under this section, there is authorized to be appropriated not to exceed $6,500,000 for each of the fiscal years 1990, 1991, and 1992. Grants.

SEC. 506. DEMONSTRATION PROJECTS TO PROVIDE COUNSELING AND SERVICES TO HIGH-RISK TEENAGERS. 42 USC 1315 note.

(a) FINDINGS AND PURPOSE.—(1) The Congress finds that—

(A) the incidences of teenage pregnancy, suicide, substance abuse, and school dropout are increasing;

(B) research to date has established a link between low self-esteem, perceived limited life options and the risk of teenage pregnancy, suicide, substance abuse, and school dropout;

(C) little data currently exists on how to improve the self-image of and expand the life options available to high-risk teenagers; and

(D) there currently is no Federal program in place to address the unique and significant problems faced by today's teenagers.

(2) It is the purpose of the demonstration projects conducted under this section to provide programs in which a range of non-academic services (sports, recreation, the arts) and self-image counseling are provided to high-risk teenagers in order to reduce the rates of pregnancy, suicide, substance abuse, and school dropout among such teenagers.

(b) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into an agreement with each of 4 States submitting applications under this section for the purpose of conducting demonstration projects in accordance with this section to provide counseling and services to certain high-risk teenagers. Contracts.

(c) NATURE OF PROJECT.—Under each demonstration project conducted under this section—

(1) The State shall establish a "Teen Care Plan" that shall consist of the following:

(A) A clearing house where high-risk teenagers will be referred to and encouraged to participate in non-academic activities (arts, recreation, sports) which are already in place in the community.

(B) A survey of the area to be targeted by the project to determine the need to fund and create new non-academic activities in the area.

(C) Counseling services utilizing qualified, locally licensed psychologists, social psychologists, or other mental health professionals or related experts to provide individual and group counseling to participating high-risk teenagers. 102 STAT. 2406

(D) A program to provide participants in the project (to the extent practicable) with such transportation, child care, and equipment as is necessary to carry out the purposes of the project. Transporation.

(2) The State shall designate two geographical areas within the State to be targeted by the project. One area will serve as the "home base" for the project, where services will be concentrated and in which a local school system will be selected to receive services and provide facilities for resource referral and counseling. The second geographical area will serve as a "peripheral" participant, receiving assistance and services from the home base.

(3) A high-risk teenager is any male or female who has reached the age of 10 years and whose age does not exceed 20 years, and who—

(A) has a history of academic problems;

(B) has a history of behavioral problems both in and out of school;

(C) comes from a one-parent household; or

(D) is pregnant or is a mother of a child.

(d) APPLICATIONS; SELECTION CRITERIA.—(1) In selecting States to conduct demonstration projects under this section, the Secretary—

(A) shall consult with the Consortium on Adolescent Pregnancy;

(B) shall consider—

(i) the rate of teenage pregnancy in each State,

(ii) the teenage school dropout rate in each State,

(iii) the incidence of teenage substance abuse in each State, and

(iv) the incidence of teenage suicide in each State; and

(C) shall give priority to States whose applications—

(i) demonstrate a current strong State commitment aimed at reducing teenage pregnancy, suicide, drug abuse, and school dropout;

(ii) contain a "State support agreement" signed by the Governor, the State School Commissioner, the State Department of Human Services, and the State Department of Education, pledging their commitment to the project;

(iii) describe facilities and services to be made available by the State to assist in carrying out the project; and

(iv) indicate a demonstrably high rate of alcoholism among its residents.

(2) Of the States selected to participate in the demonstration projects conducted under this section—

(A) one shall be a geographically small State with a population of less than 1,250,000;

(B) one shall be a State with a population of over 20,000,000; and

(C) two shall be States with populations of more than 1,000,000 but less than 20,000,000.

(e) EVALUATION AND REPORT.—(1) Each State conducting a demonstration project under this section shall submit to the Secretary for his approval an evaluation plan that provides for examining the effectiveness of the project in both the home base and peripheral area of the State.

102 STAT. 2407

(2) Not later than October 1, 1992, the Secretary shall submit to the Congress a report containing a summary of the evaluations conducted by States pursuant to the plans described in paragraph (1).

(f) FUNDING.—(1) Three-fifths of the total amount appropriated pursuant to this section for any fiscal year for each State conducting a demonstration project shall be expended by such State for the provision of services and facilities within the State's designated project home base, and 5 percent of such three-fifths shall be set aside for the conduct of the State's evaluation as provided for in subsection (e).

(2) Two-fifths of the total amounts appropriated pursuant to this section for any fiscal year for each State conducting a demonstration project shall be expended by such State for the provision of services and facilities within the State's designated peripheral area, and 5 percent of such two-fifths shall be set aside for the conduct of the State's evaluation as provided for in subsection (e).

Contracts.

(g) DURATION.—A demonstration project conducted under this section shall be commenced not later than September 30, 1989, and shall be conducted for a 3-year period; except that the Secretary may terminate a project before the end of such period if he determines that the State conducting the project is not in substantial compliance with the terms of the agreement entered into with the Secretary under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of funding in equal amounts each State demonstration project conducted under this section, there is authorized to be appropriated not to exceed $1,500,000 for each of the fiscal years 1990, 1991, and 1992.

SEC. 608. MISCELLANEOUS TECHNICAL CORRECTIONS TO MEDICARE CATASTROPHIC COVERAGE ACT OF 1988.

(a) MODIFICATION OF PROVISIONS RELATING TO EMPLOYMENT MAINTENANCE OF EFFORT.—Section 421 of the Medicare Catastrophic Coverage Act of 1988 is amended— 42 USC 1395b note.

(1) in subsection (a)(1)—

(A) by striking "(c)(1)" and inserting "(c)(1)(A)", and

(B) by striking "during the period described in subsection (c)(1)(A)" and inserting "(determined as if they were provided in that period)";

(2) in subsection (a)(2)—

(A) by striking "(c)(2)" and inserting "(c)(1)(B)", and

(B) by striking "during the period described in subsection (c)(1)(B)" and inserting "(determined as if they were provided in that period)";

(3) in subsections (a)(3)(A) and (a)(3)(B), by inserting "provided as of the date of the enactment of this Act" after "means benefits";

(4) in subsection (b)(1)—

(A) by inserting "1989" after "50 percent of the", and

(B) by striking "of the duplicative part A benefits" and inserting "of the benefits under part A of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1989) which were not covered under part A of title XVIII of the Social Security Act as such part was in effect on the day before the date of the enactment of this Act";

(5) in subsection (b)(2)—

(A) by inserting "1990" after "50 percent of the", and

(B) by striking "of the duplicative part B benefits" and inserting "of the benefits under part B of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1990, but excluding any such benefits with respect to covered outpatient drugs) which were not covered under part B of title XVIII of the Social Security Act as such part was in effect on the day before the date of the enactment of this Act."; and

(6) in subsection (b)(3)—

(A) in subparagraph (A), by striking "the actuarial value of duplicative part A benefits and duplicative part B benefits" and inserting "the amount of the additional benefits or refunds to be provided under subsections (a)(1) and (a)(2)";

(B) in subparagraph (A)(i), by striking "on the basis of" and inserting "as being equal to the respective national";

(C) in subparagraph (B), by striking "COMPUTATION OF ACTUARIAL VALUE" and inserting "PUBLICATION OF GUIDELINES AND NATIONAL AVERAGE ACTUARIAL VALUES FOR MINIMUM ADDITIONAL BENEFITS AND REFUNDS"; and

(D) by striking clause (i) of subparagraph (B) and all that follows through "shall include instructions" and inserting the following:

"(i) calculate and publish—

"(I) the national average actuarial value for the following year of the benefits under part A of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1989) which were not covered under such part as such part was in effect before the date of the enactment of this Act, and

"(II) the national average actuarial value for the following year of the benefits under part B of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1990, but excluding any such benefits with respect to covered outpatient drugs) which were not covered under such part as such part was in effect before the date of the enactment of this Act,

to be used by employers who exercise the option under subparagraph (A)(i) in determining the minimum amount of additional benefits or refunds to be provided under subsections (a)(1) and (a)(2), respectively; and

"(ii) publish guidelines to be used by employers who exercise the option under subparagraph (A)(ii) in determining the minimum amount of additional benefits or refunds to be provided under subsections (a)(1) and (a)(2), respectively.

The Secretary shall publish, before the beginning of 1989 with respect to part A benefits and before the beginning of 1990 with respect to part B benefits, guidelines". Public information.

(b) INCLUSION OF PROVISIONS REPEALING AUTHORITY TO ADMINISTER PROFICIENCY EXAMINATIONS.—The Medicare Catastrophic Coverage Act of 1988 is amended by inserting after section 429 the following new section (and by inserting a corresponding item in the table of contents of such Act):

"SEC. 430. REPEAL OF AUTHORITY TO ADMINISTER PROFICIENCY EXAMINATIONS.

"(a) REPEAL.—Section 1123 of the Social Security Act (42 U.S.C. 1320a-2) is repealed.

"(b) EFFECT OF REPEAL.—Nothing in the amendment made by subsection (a) shall be construed as affecting the qualification of any individual, who has been determined under the program established under section 1123 of the Social Security Act to be qualified to perform the duties and functions of a health care specialty, to perform such duties and functions.". Health and medical care. 42 USC 1320a-2 note.

(c) CONTINUATION OF COST PASS-THROUGH FOR CERTIFIED REGISTERED NURSE ANESTHETISTS.—Section 9320 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) in subsection (i), by striking "The amendments" and inserting "Except as provided in subsection (k), the amendments", and 42 USC 1395k note.

(2) by adding at the end the following new subsection:

"(k) AUTHORIZATION OF CONTINUATION OF PASS-THROUGH.—

"(1) Subject to paragraph (2), the amendments made by this section shall not apply during 1989, 1990, and 1991 to a hospital located in a rural area (as defined for purposes of section 1886(d) of the Social Security Act) if the hospital establishes, before April 1, 1989, to the satisfaction of the Secretary of Health and Human Services that— Rural areas. 42 USC 1395k note. Health care facilities.

"(A) as of January 1, 1988, the hospital employed or contracted with a certified registered nurse anesthetist (but not more than one full-time equivalent certified registered nurse anesthetist), Effective date. Contracts.

102 STAT. 2413

"(B) in 1987 the hospital had a volume of surgical procedures (including inpatient and outpatient procedures) requiring anesthesia services that did not exceed 250 (or such higher number as the Secretary determines to be appropriate), and

"(C) each certified registered nurse anesthetist employed by, or under contract with, the hospital has agreed not to bill under part B of title XVIII of such Act for professional services furnished by the anesthetist at the hospital. Contracts.

"(2) Paragraph (1) shall not apply in 1990 or 1991 to a hospital unless the hospital establishes, before the beginning of each respective year, that the hospital has had a volume of surgical procedures (including inpatient and outpatient procedures) requiring anesthesia services in the previous year that did not exceed 250 (or such higher number as the Secretary determines to be appropriate).

"(3) The Secretary shall implement this subsection in such a manner as to maintain budget neutrality consistent with section 1833(l)(3) of the Social Security Act.".

"(45) provide (in accordance with regulations issued by the Secretary) for appropriate measures to detect fraudulent applications for aid to families with dependent children prior to the establishment of eligibility for such aid.".

(b) EFFECTIVE DATE; REGULATIONS.—(1) The amendments made by subsection (a) shall become effective on October 1, 1989. 42 USC 602 note.

(2) The Secretary of Health and Human Services shall issue final regulations with respect to the requirement added by the amendment made by subsection (a) not later than 6 months after the date of the enactment of this Act. Regulations.

102 STAT. 2410

SEC. 606. UNIFORM REPORTING REQUIREMENTS.

Section 403 of the Social Security Act is amended by inserting immediately before subsection (f) the following new subsection: 42 USC 603.

"(e) In order to assist in obtaining the information needed to carry out subsection (b)(1) and otherwise to perform his duties under this part, the Secretary shall establish uniform reporting requirements under which each State will be required periodically to furnish such information and data as the Secretary may determine to be necessary to ensure that sections 402(a)(37), 402(a)(43), and 402(g)(1)(A), are being effectively implemented, including at a minimum the average monthly number of families assisted under each such section, the types of such families, the amounts expended with respect to such families, and the length of time for which such families are assisted. The information and data so furnished with respect to families assisted under section 402(g) shall be separately stated with respect to families who have earnings and those who do not, and with respect to families who are receiving aid under the State plan and those who are not.".

SEC. 607. STATE REPORTS ON EXPENDITURE AND USE OF SOCIAL SERVICES FUNDS.

Section 2006 of the Social Security Act is amended— 42 USC 1397e.

(1) by striking that part of the second sentence of subsection (a) which precedes "as the State finds necessary" and inserting in lieu thereof "Reports shall be prepared annually, covering the most recently completed fiscal year, and shall be in such form and contain such information (including but not limited to the information specified in subsection (c))";

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection:

"(c) Each report prepared and transmitted by a State under subsection (a) shall set forth (with respect to the fiscal year covered by the report)—

"(1) the number of individuals who received services paid for in whole or in part with funds made available under this title, showing separately the number of children and the number of adults who received such services, and broken down in each case to reflect the types of services and circumstances involved;

"(2) the amount spent in providing each such type of service, showing separately for each type of service the amount spent per child recipient and the amount spent per adult recipient;

"(3) the criteria applied in determining eligibility for services (such as income eligibility guidelines, sliding fee scales, the effect of public assistance benefits, and any requirements for enrollment in school or training programs); and

"(4) the methods by which services were provided, showing separately the services provided by public agencies and those provided by private agencies, and broken down in each case to reflect the types of services and circumstances involved.

The Secretary shall establish uniform definitions of services for use by the States in preparing the information required by this subsection, and make such other provision as may be necessary or appropriate to assure that compliance with the requirements of this subsection will not be unduly burdensome on the States.".

102 STAT. 2411

(d) MISCELLANEOUS TECHNICAL CORRECTIONS TO VARIOUS PROVISIONS IN THE MEDICARE CATASTROPHIC COVERAGE ACT OF 1988 ("MCCA").—

(1) ABBREVIATIONS USED.—In this subsection:

(A) The term "MCCA" refers to the Medicare Catastrophic Coverage Act of 1988 (Public Law 100–360).

(B) The term "OBRA" refers to the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203).

(2) SECTION 103.—The second sentence of section 1818(d)(1) of the Social Security Act, as amended by section 103 of MCCA, is amended by striking "entire".

(3) SECTION 104.—Section 104 of MCCA is amended—

42 USC 1395d note.

(A) in subsection (a)(1), by striking "paragraphs (2) and (3)" and inserting "paragraph (2) and subsection (b)";

42 USC 1395e note.

(B) in subsection (b)(1)—

(i) by striking "(1) the amendment made to section 1813(a)(1) of such Act" and inserting "(1)(A) section 1813(a)(1) of such Act (as amended by this subtitle)", and

(ii) by adding at the end the following new subparagraph:

Health and medical care.

"(B) if that individual begins a period of hospitalization (as defined in such section) during 1989 or 1990 after the end of that spell of illness, the first period of hospitalization during 1989 or 1990 that begins after that spell of illness shall be considered to be (for purposes of such section) the first period of hospitalization that begins during that year; and";

42 USC 1395ww note.

(C) in subsections (c)(1) and (c)(2), by striking "by medicare beneficiaries" and inserting "by (or on behalf of) medicare beneficiaries";

Effective date.

(D) in subsection (c)(2), by striking "cost reporting periods beginning on or after October 1, 1988" and inserting "portions of cost reporting periods occurring on or after January 1, 1989";

(E) in subsection (c)(2), by inserting before the period at the end the following: ", without regard to whether such a hospital is paid on the basis described in subparagraph (A) or (B) of section 1886(b)(1) of such Act";

102 STAT. 2414

42 USC 1395cc.

(F) in subsection (d)(5), by striking "each place it appears"; and

(G) by adding at the end of subsection (d) the following new paragraph:

Health and medical care.

"(7) Section 1833(b) (42 U.S.C. 1395l(b)) is amended by adding at the end the following new sentence: 'The deductible under the previous sentence for blood or blood cells furnished an individual in a year shall be reduced to the extent that a deductible has been imposed under section 1813(a)(2) to blood or blood cells furnished the individual in the year.'.".

42 USC 1395*l*.

(4) SECTION 201.—Section 201(a)(1)(A) of MCCA is amended by striking "subsection" and inserting "subsections".

(5) SECTION 202.—(A) Section 1842(o)(1) of the Social Security Act, as added by section 202(c)(1)(C) of MCCA, is amended—

(i) in subparagraph (A)(i), by striking "subparagraph (D)(i)" and inserting "paragraph (4)", and

(ii) in subparagraph (B)(ii), by inserting "an" before "eligible organization".

(B) Section 1842(f)(3) of the Social Security Act, as added by section 202(e)(1) of MCCA, is amended by inserting ", including claims processing functions" after "and related functions".

(C) Section 1842(b)(3)(K) of the Social Security Act, as inserted by section 202(e)(2)(B) of MCCA, is amended by inserting ", including claims processing functions," after "and for related functions".

(D) Section 1842(c)(1)(A)(ii) of the Social Security Act, as added by section 202(e)(3)(A)(iii) of MCCA, is amended by insert-

ing ", including claims processing functions" after "and related functions".

(E) Section 202(e)(3)(B) of MCCA is amended by inserting ", including claims processing functions" after "and related functions". 42 USC 1395u note.

(F) Section 202(e)(3)(C) of MCCA is amended by striking "Section 1842(b)(2)" and inserting "Section 1842(b)(2)(A)". 42 USC 1395u.

(G) Section 1842(b)(2)(A) of the Social Security Act, as amended by section 202(e)(3)(C) of MCCA, as revised by the previous amendment, is amended by inserting ", including claims processing functions" after "and related functions".

(H) Section 202(e)(5)(A) of MCCA is amended by—

(i) by striking "paragraph (3)" and inserting "paragraph (4)", and

(ii) by adding "and" after the semicolon at the end.

(I) Section 1847(b)(3) of the Social Security Act, as added by section 202(j) of MCCA, is amended by striking "the contingency margin (established under section 1841A(d) for the following year)" and inserting "the contingency margin required for the following year".

(6) SECTION 203.—(A) Section 1861 of the Social Security Act is amended by adding immediately before subsection (jj), as added by section 203(b) of MCCA, the following new heading: 42 USC 1395x.

"Home Intravenous Drug Therapy Services".

(B) Section 203(c)(3) of MCCA is amended by adding at the end the following new sentence: "Chapter 35 of title 44, United States Code, shall not apply to information required for purposes of carrying out this paragraph.". 102 Stat. 724.

(7) SECTION 205.—Section 205(e)(1)(A) of MCCA is amended by redesignating clause (iv) as clause (iii). 42 USC 1395y.

(8) SECTION 208.—The second sentence of section 208(b) of MCCA is amended by striking "shall include in the report" and inserting "shall report, not later than 2 years after the date of the enactment of this Act,". Reports. 42 USC 1395ll note.

(9) SECTION 211.—(A) Section 1839(g) of the Social Security Act, as added by section 211(a) of MCCA, is amended—

(i) in paragraph (1)(B)(iii)(I), by striking "and" and inserting "over",

(ii) in paragraph (1)(B)(iii)(II), by inserting "premium" after "supplemental", and

(iii) in paragraph (7)(A)(ii), by inserting "each" before "such year,".

(B) Section 1839(f) of the Social Security Act, as amended by section 211(b) of MCCA, is amended by striking "for that January below the amount of benefits payable to that individual for that December" and inserting "for that December below the amount of benefits payable to that individual for that November".

(10) SECTION 212.—(A) Section 1841A(a)(1) of the Social Security Act, as inserted by section 212(a) of MCCA, is amended by striking "1841(j)" and inserting "1840(i)".

(B) Section 1840(i) of the Social Security Act, as added by section 212(b)(1) of MCCA, is amended by striking "Supplemental" and inserting "Supplementary".

(11) SECTION 213.—Section 213 of MCCA is amended by striking "(a) IN GENERAL.—". 42 USC 1395t-2.

(12) SECTION 221.—Section 221(g)(2) of MCCA is amended by striking "subsection (c)" and inserting "subsection (d)". 42 USC 1395ss note.

(13) SECTION 222.—Section 222 of MCCA is amended— 42 USC 1395mm note.

(A) in paragraph (1), by striking "sections 1833(a)(1)(A) and 1876" and inserting "section 1876", and

(B) in paragraph (2), by inserting "and organizations paid under section 1833(a)(1)(A) of such Act" after "organizations".

(14) SECTION 301.—Section 301 of MCCA is amended—

42 USC 1396d. (A) in subsection (b)(1), by striking "clause (ii)" and inserting "subparagraph (B)" and by adding "and" at the end;

(B) by striking paragraph (2) of subsection (b) and by redesignating paragraph (3) of such subsection as paragraph (2);

(C) in subsection (b)(2), as so redesignated, by striking "by adding at the end the following new clause" and inserting "by striking subparagraph (B) and inserting the following";

(D) in the matter inserted by subsection (b)(2), as so redesignated and amended—

(i) by redesignating subclauses (I) through (IV) of clause (ii) and subclauses (I) through (V) of clause (iii) as clauses (i) through (iv) of subparagraph (B) and clauses (i) through (v) of subparagraph (C), respectively;

(ii) in subparagraph (B), as so redesignated, by striking "in clause (iii)" and inserting "in subparagraph (C)"; and

(iii) in subparagraph (C), as so redesignated, by striking "under clause (ii)" and inserting "under subparagraph (B)";

102 STAT. 2416

42 USC 1396d. (E) in subsection (c)—

(i) by adding "and" at the end of paragraph (1),

(ii) by striking "; and" at the end of paragraph (2), and inserting a period, and

(iii) by striking paragraph (3);

42 USC 1396d. (F) in subsection (d)(2), in the subparagraph (C) amended by such paragraph, by inserting "section" before "1833(b)";

(G) in subsection (d)—

(i) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively, and

(ii) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) in paragraph (3), by inserting ', without regard to whether the costs incurred were for items and services for which medical assistance is otherwise available under the plan' after 'qualified medicare beneficiary' the first place it appears;";

42 USC 1395v. (H) in subsection (e)(1)—

(i) by inserting "(A)" before "Section", and

(ii) by adding at the end the following new subparagraphs:

42 USC 1396a note. "(B) Subsection (h)(1) of such section is further amended by inserting '(A)' after 'include' and by inserting before the period at the end the following: ', or (B) qualified medicare beneficiaries (as defined in section 1905(p)(1))'.

"(C) The second sentence of subsection (h)(2) of such section is amended by inserting '(except in the case of qualified medicare beneficiaries, as defined in section 1905(p)(1))' after 'shall be applied' the second place it appears.";

42 USC 1396a. (I) in subsection (e)(2)—

(i) in subparagraph (C), by striking "and" at the end and by redesignating such subparagraph as subparagraph (D);

(ii) in subparagraph (D), by striking the period at the end and inserting ", and" and by redesignating such subparagraph as subparagraph (E); and

(iii) by inserting after subparagraph (B) the following new subparagraph:

"(C) in subsection (a), by striking paragraph (15);";

42 USC 1396d. (J) in paragraph (5)(B) of the matter added by subsection (g)(2)—

(i) by striking "paragraph (2)(A)" and inserting "paragraph (2)", and

(ii) by striking "clause (ii)" and inserting "subparagraph (B)"; and

(K) in subsection (h)(2), by inserting "first calendar quarter beginning after the close of the" after "additional requirements before the first day of the". 42 USC 1396a note.

(15) SECTION 302.—(A) Section 302(a)(2)(B) of MCCA is amended— 42 USC 1396a.

(i) in clause (i), by striking "not more" the first place it appears and inserting "(not more", and

(ii) in clause (iii), by striking "clause" and inserting "clauses".

(B) Section 1902(l)(2)(A) of the Social Security Act, as amended by section 302(a)(2)(B)(iii) of MCCA, is amended—

(i) in clause (ii)— 102 STAT. 2417

(I) by striking "Subject to clause (iii), the" and inserting "The",

(II) in subclause (I), by inserting "or, if greater, the percentage provided under clause (iii)," after "75 percent,"; and

(ii) in clause (iii), by striking "(ii)" each place it appears and inserting "(ii)(I)".

(C) Section 1923(a)(2) of the Social Security Act is amended by indenting the subparagraph (C) added by section 302(b)(2) of MCCA 2 ems. 42 USC 1396r-4.

(16) SECTION 303.—(A) Section 1924 of the Social Security Act, as inserted by section 303(a)(1)(B) of MCCA, is amended—

(i) in the last sentence of subsection (c)(1)(B), by striking "has right to a fair hearing" and all that follows through "needs allowance" and inserting "will have a right to a fair hearing under subsection (e)(2)";

(ii) in subsection (c)(2)(B), by striking "resources shall not" and all that follows through "does not exceed" and inserting "resources shall be considered to be available to an institutionalized spouse, but only to the extent that the amount of such resources exceeds";

(iii) in subsection (d)(3)(A)(i), by striking "nonfarm";

(iv) in subsection (d)(4), by striking "subparagraph (C)" and inserting "subparagraph (B)";

(v) in the first sentence of subsection (e)(2)(A), by inserting before the period at the end the following: "if an application for benefits under this title has been made on behalf of the institutionalized spouse";

(vi) in subsection (f)(1)—

(I) by striking "to the community spouse (or to another for the sole benefit of the community spouse)", and

(II) by striking "pacticable" and inserting "practicable"; and

(vii) in subsection (f)(3), by striking "spouse of a family member" and inserting "spouse or a family member".

(B) Section 1917(c) of the Social Security Act, as amended by section 303(b) of MCCA, is amended— Health and medical care—Health care facilities.

(i) in paragraph (1)—

(I) by inserting "for nursing facility services and for a level of care in a medical institution equivalent to that of nursing facility services and for services under section 1915(c)" after "period of ineligibility" the first place it appears,

(II) by inserting "or after" after "during", and

(III) by striking "the individual's application for medical assistance under the State plan" and inserting "the date the individual becomes an institutionalized individual (if the individual is entitled to medical assistance under the State plan on such date) or, if the individual is not so entitled, the date the individual applies for such assistance while an institutionalized individual";

(ii) in paragraph (2)(A)(ii), by inserting "(I)" after "who" and by inserting "(II)" after "or" the first place it appears;

(iii) in paragraph (2)(A)(iii), by striking "of the individual's admission to the medical institution or nursing facility" and inserting "the individual becomes an institutionalized individual";

102 STAT. 2418

(iv) in paragraph (2)(A)(iv), by striking "of such individual's admission to the medical institution or nursing facility" and inserting "the individual becomes an institutionalized individual";

(v) in paragraph (2)(B)—

(I) by inserting "(i)" after "transferred", and

Blind persons. Handicapped persons.

(II) by striking "or the individual's child who is blind or permanently and totally disabled" and inserting ", (ii) to the individual's child described in subparagraph (A)(ii)(II), or (iii) to (or to another for the sole benefit of) the individual's spouse if such spouse does not transfer such resources to another person other than the spouse for less than fair market value";

Health care facilities.

(vi) in paragraph (3), by striking "in a medical institution or nursing facility" and inserting "in a nursing facility, who is an inpatient in a medical institution and with respect to whom payment is made based on a level of care provided in a nursing facility, or who is described in section 1902(a)(10)(A)(ii)(VI)"; and

(vii) by adding at the end the following new paragraph:

"(5) In this subsection, the term 'resources' has the meaning given such term in section 1613, without regard to the exclusion described in subsection (a)(1) thereof.".

(C) Section 1902(r)(2)(A) of the Social Security Act, as added by section 303(e)(5)(C) of MCCA, is amended by striking "or under subsection (f)" and inserting "or (f) or under section 1905(p)".

42 USC 1396r-5 note.

(D) Section 303(g) of MCCA is amended—

(i) in paragraph (2)(B), by inserting before the period at the end the following: ", except that such section shall not apply with respect to inter-spousal transfers occurring before October 1, 1989";

Termination date.

(ii) in paragraph (2)(C), by inserting before the period at the end the following: ", and the laws and policies established by the State as of June 30, 1988, or provided for before July 1, 1988, shall continue to apply through September 30, 1989, (and may, at a State's option continue after such date) to inter-spousal transfers occurring before October 1, 1989"; and

(iii) in paragraph (5), by striking "other than subsection (e)" and inserting "other than paragraphs (1) and (5) of subsection (e)".

(17) SECTION 411(a).—Section 1842(n)(1)(A) of the Social Security Act, as clarified by section 411(a)(3)(C) of MCCA, is amended by striking "the the supplier's" and inserting "the supplier's".

(18) SECTION 411(b).—(A) Subclauses (III) and (IV) of section 1886(b)(3)(B)(i) of the Social Security Act, as amended by section 411(b)(1)(A) of MCCA, are amended by striking "for for hospitals" and inserting "for hospitals".

42 USC 1395ww.

(B) Section 411(b)(1)(E) of MCCA is amended by designating subparagraph (E) as clause (ii) and by inserting immediately before such subparagraph the following:

"(E)(i) Section 1886(d)(3)(A)(i) of the Social Security Act, as amended by section 4002(c)(1)(B)(i) of OBRA, is amended by striking 'occuring' and inserting 'occurring'.".

102 STAT. 2419

42 USC 1395ww.

(C) Section 411(b)(4) of MCCA is amended by adding at the end the following new subparagraph:

"(E) Section 4005(b)(3)(B) of OBRA is amended by striking 'on' after '(B)'.".

42 USC 1395ww note.

(D) Section 411(b)(6)(C) of MCCA is amended—

(i) in clause (ix)(I), by striking "payors" and inserting "payers",

(ii) in clause (ix)(III), by striking "and" before "other persons", and

(iii) in clause (x)(II), by striking "operation" and inserting "operations".

(E) Section 411(b)(8)(A)(i) of MCCA is amended, in paragraph (1)(A)(ii) of the amendment inserted by such section, by inserting "the" immediately before "previous". 42 USC 1395dd.

(19) SECTION 411(c).—Section 411(c) of MCCA is amended—

(A) in paragraph (2), by adding at the end the following new subparagraph: 42 USC 1395cc.

"(C) Section 1866(a)(1) of the Social Security Act, as amended by section 4012(a) of OBRA, is amended—

"(i) by striking 'and' at the end of subparagraph (M), and

"(ii) by striking the period at the end of subparagraph (N) and inserting ', and'.";

(B) in paragraph (4)— 42 USC 1395mm.

(i) by striking "and" at the end of subparagraph (A),

(ii) by redesignating subparagraph (B) as subparagraph (C), and

(iii) by inserting after subparagraph (A) the following new subparagraph:

"(B) in subparagraph (B)(i), by inserting 'of such subparagraph' after '(v)(I)', and"; and

(C) by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph: 42 USC 1395mm.

"(5) SECTION 4015.—Section 4015(a) of OBRA is amended— 42 USC 1395mm note.

"(A) in the first sentence of paragraph (7) by striking 'the the' and inserting 'the', and

"(B) in paragraph (10), by striking 'affect' and inserting 'effect'.".

(20) SECTION 411(d).—(A) Section 411(d)(2)(A) of MCCA is amended by striking "by inserting" and all that follows and inserting the following: "to read as follows: 'The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A.'.". 42 USC 1395bbb.

(B) Section 411(d)(4)(A) of MCCA is amended— 42 USC 1395aa.

(i) in clause (i)—

(I) by striking "accreditation" the first place it appears and inserting "certification", and

(II) by striking "accreditation survey conducted by a State agency or" and inserting "certification survey conducted by a State agency or accreditation survey conducted by a"; and

(ii) in clause (ii), amend subclause (II) to read as follows:

"(II) by striking 'pursuant to an agreement with the Secretary under section 1864' and inserting 'utilized by the Secretary under section 1865'.". Contracts.

(C) Section 411(d)(4)(A)(ii)(I) of MCCA is amended by striking "such". 42 USC 1395aa.

(D) The subsection inserted by section 411(d)(4)(B)(ii) of MCCA is amended by striking "agency" and inserting "agency)". 42 USC 1395bb.

(21) SECTION 411(f).—(A) Section 1842(i)(3) of the Social Security Act, as redesignated by section 4042(b)(1)(C)(iii) of OBRA as amended by section 411(f)(2)(C) of MCCA, is amended by striking "paragraph (3)" and inserting "subsection (b)(3)".

(B) Section 411(f)(2)(F)(i) of MCCA is amended, in the matter inserted by such section— 42 USC 1395u.

(i) by striking "139u(b)(4)(A)" and inserting "1395u(b)(4)(A)", and

(ii) by striking the closing single quotation mark and the period that follows it.

42 USC 1395m.

(C) Section 411(f)(8)(D) of MCCA is amended by redesignating clauses (ii) through (v) as clauses (iii) through (vi), respectively, and by inserting after clause (i) the following new clause:

"(ii) in paragraph (4)(C), by striking 'Radiologist' and inserting 'For radiologist', and by striking '1842(b)(4)(E)(ii)' and inserting '1842(i)(3)';".

42 USC 1395u.

(D) Section 411(f)(9)(B) of MCCA is amended by inserting "and inserting '(or other applicable limit)' " before the semicolon at the end.

42 USC 1395ccc.

(E) Section 411(f)(10)(A)(iii) of MCCA is amended by striking "physician" and inserting "individual".

(F) Section 411(f)(10)(C)(i) of MCCA is amended—

(i) by striking "and" at the end of subclause (V),

(ii) by striking the period at the end of subclause (VI) and inserting ", and", and

(iii) by adding at the end the following new subclause:

"(VII) in subsection (d)(2), by striking 'continued' and inserting 'continues'.".

(G) Subclause (II) of section 411(f)(10)(C)(i) of MCCA is amended to read as follows:

"(II) by striking 'physician' and 'a physician' each place either appears (other than the third place either appears in subsection (a)(4)) and inserting 'individual' and 'an individual', respectively;".

(H) Section 411(f)(10)(C)(i)(IV) of MCCA is amended—

(i) by striking "paragraph (1)(A)" and inserting "subsection (a)(1)(A)", and

(ii) by striking the comma after "Loan Program".

42 USC 1395m.

(22) SECTION 411(g).—(A) Section 411(g)(1)(B) of MCCA is amended—

(i) by amending clause (xi) to read as follows:

"(xi) in paragraphs (8)(B) and (9)(B), by striking '(as defined in section 1886(d)(2)(D))' and inserting '(as defined by the Secretary)' and, in clause (i) of such paragraphs, by striking the comma after '1991';" and

(ii) by amending clause (xv) to read as follows:

"(xv) in paragraph (12), by striking 'for each region (as defined in section 1886(d)(2)(D))' and inserting 'for one or more entire regions defined for purposes of paragraphs (8)(B) and (9)(B)'; and".

(B) Section 1833(i)(6) of the Social Security Act, as added by section 4063(e)(1) of OBRA as amended by section 411(g)(2)(E) of MCCA, is amended by striking "other than" the first place it appears and inserting "including".

102 STAT. 2421

42 USC 1395w-2.

(C) Section 411(g)(3)(G)(i)(I) of MCCA is amended by striking "and 'certification' " and by striking "and 'approval', respectively".

42 USC 1395*l*.

(D) Section 411(g)(4)(C)(i) of MCCA is amended by striking the comma after "1988" the first place it appears.

42 USC 1395*l*.

(23) SECTION 411(h).—(A) Section 411(h)(3)(B) of MCCA is amended by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively, and by inserting before clause (ii), as so redesignated, the following new clause:

"(i) by striking '1395' and inserting '1395l',".

(B) Section 1861(s)(2)(K)(i)(I) of the Social Security Act, as designated by the amendment made by section 411(h)(6) of MCCA, is amended by striking "intermediate care facility (as defined in section 1905(c))" and inserting "nursing facility (as defined in section 1919(a))".

42 USC 1395ss note.

(24) SECTION 411(i).—(A) Section 411(i)(1)(E) of MCCA is amended by striking the comma after "1988".

42 USC 1395u.

(B) The paragraph (26) added by section 411(i)(4)(C)(vi) of MCCA is amended—

(i) by striking "and" at the end of subparagraph (A),

(ii) by adding "and" at the end of clause (i) of subparagraph (B), and

(iii) by redesignating clause (iii) of subparagraph (B) as subparagraph (C) and by moving the indentation of such subparagraph 2 ems to the left.

(C) Section 411(i)(4) of MCCA is amended— 42 USC 1395y.

(i) in subparagraph (D)(i)(I), by striking ", 1842(j)(2), or 1867(d)" and inserting "or 1842(j)(2)", and

(ii) in subparagraph (D)(ii)—

(I) by inserting "and" at the end of subclause (III), 42 USC 1395aaa.

(II) by striking subclause (IV), and

(III) by redesignating subclause (V) as subclause (IV). 42 USC 1395y.

(25) SECTION 411(j).—(A) Section 411(j)(3) of MCCA is amended by adding at the end the following new subparagraph:

"(C) Section 4094(e) of OBRA is amended by striking 'feasability' and inserting 'feasibility'.". 42 USC 1320c-5 note.

(B) Section 411(j)(4)(C) of MCCA is amended by striking "before 'paragraph (2)' ". 42 USC 1320c-3.

(26) SECTION 411(k).—(A) Section 411(k)(6)(A)(vi)(IV) of MCCA is amended by striking "the election made by a State under" and inserting "whether the hospital is described in subparagraph (A) or (B) of". 42 USC 1396r-4.

(B) Section 411(k)(6)(A)(vii)(II) of MCCA is amended by inserting "the first place it appears" before the comma.

(C) The paragraph added by section 411(k)(6)(A)(vii)(III) of MCCA is amended by striking "Statewide" and inserting "statewide".

(D) Section 1923(b)(3)(B)(i) of the Social Security Act, as designated by section 411(k)(6)(B)(i) of MCCA and as amended by section 411(k)(6)(A)(v) of MCCA, is amended by inserting "of subparagraph (A)" after "clause (i)(II)".

(E) Section 1923(c) of the Social Security Act, as designated by section 411(k)(6)(B)(i) of MCCA, by striking "subsection (c)" and inserting "this subsection".

102 STAT. 2422

(F) Section 411(k)(6)(B)(vi) of MCCA is amended by striking "(c)" and inserting "(d)". 42 USC 1396r-4.

(G) Section 411(k)(9) of MCCA is amended by striking "(A)" immediately after ".—". 102 Stat. 794.

(H) Section 411(k)(10)(B)(ii)(II) of MCCA is amended by striking "1128(a)" and "1320a-7(a)" and inserting "1128A(a)" and "1320a-7a(a)", respectively. 42 USC 1320a-7, 1320a-7a.

(I) Section 1128A(l) of the Social Security Act, as added by section 4118(e)(1)(B) of OBRA and as amended by section 411(k)(10)(B)(ii)(III) of MCCA, is amended by inserting "for penalties, assessments, and an exclusion" after "liable".

(J) Section 4118(e)(10)(C) of OBRA, as inserted by section 411(k)(10)(D) of MCCA, is amended by inserting "of subsection (i)" after "at the end".

(K) Section 411(k)(10)(D) of MCCA is amended—

(i) in the paragraph (6)(B) inserted by such section, by striking "or section 1867(d)(2)", and 42 USC 1320a-7a.

(ii) in subparagraphs (A) and (B) of the paragraph (11) inserted by such section and in the paragraphs (12) and (13) inserted by such section, by striking "1842(j)(2), or 1867(d)(2)" and inserting "or 1842(j)(2)". 42 USC 704, 1396b, 1396d.

(L) Section 411(k)(16)(P) of MCCA is amended— 42 USC 1396r-1.

(i) by striking "and" at the end of clause (ii),

(ii) by redesignating clause (iii) as clause (iv), and

(iii) by inserting after clause (ii) the following new clause:

"(iii) in clause (iii), by striking the period at the end and inserting '; or', and".

(M) Section 411(k)(17)(A)(iv) of MCCA is amended by inserting a comma immediately before "(d)" the second place it appears. 42 USC 1396n.

(27) SECTION 411(l).—(A) Section 411(l)(1)(A) of MCCA is amended by redesignating clauses (iv) through (xi) as clauses (v) 42 USC 1395i-3.

through (xii), respectively, and by inserting after clause (iii) the following new clause:

"(iv) in subsection (c)(1), by adding at the end the following new subparagraph:

" '(D) USE OF PSYCHOPHARMACOLOGIC DRUGS.—Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the written plan of care described in paragraph (2)) designed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually, an independent, external consultant reviews the appropriateness of the drug plan of each resident receiving such drugs.';".

(B) Section 411(l)(1) of MCCA is amended by adding at the end the following new subparagraph:

"(C) Section 4201(d) of OBRA, as amended by subparagraph (B), is further amended by adding at the end the following new paragraphs:

" '(3) Section 1883(f) of such Act (42 U.S.C. 1395tt(f)) is amended by striking "section 1861(j)(15)" and inserting "section 1819".

" '(4) The third sentence of section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended by striking "1861(j)" and inserting "1819(a)"

" '(5) Section 1861(n) of such Act (42 U.S.C. 1395x(n)) is amended by striking "or (j)(1) of this section" and inserting "of this section or section 1819(a)(1)".'.".

102 STAT. 2423

42 USC 1395i-3, 1396r.

(C) Section 411(l)(2)(A) of MCCA is amended by inserting a comma immediately after "this title" and immediately after "title XVIII".

(D) Section 411(l)(2)(D)(i) of MCCA is amended by striking "care".

42 USC 1396d note.

(E) Section 411(l)(3)(C) of MCCA is amended by inserting "(i)" after "(C)" and by adding at the end the following new clauses:

42 USC 1396r.

"(ii) Section 4211 of OBRA (101 Stat. 1330-196) is amended by striking the following (and the immediately preceding quotation marks and period):

" '(c) STATE REQUIREMENTS RELATING TO NURSING FACILITY REQUIREMENTS.—Section 1919 of such Act is further amended by adding at the end the following new subsection:'.

"(iii) Section 1919(c)(2)(B)(iii)(III) of the Social Security Act, as inserted by section 4211(a)(3) of OBRA, is amended by striking 'responsibile' and inserting 'responsible'.".

42 USC 1396a.

(F) Section 411(l)(3)(H)(i) of MCCA is amended by striking "each place it appears".

(G) Section 411(l)(3)(H)(iii) of MCCA is amended by inserting "services" immediately after "nursing facility" the first place it appears.

42 USC 1396a.

(H) Section 411(l)(3) of MCCA is amended by adding at the end the following new subparagraph:

"(J) Section 4211(h)(2)(B) of OBRA is amended by inserting a comma before 'nursing facility,' the second place it appears.".

42 USC 1395i-3, 1396r.

(I) Section 411(l)(5) of MCCA is amended by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively, and by inserting after subparagraph (E) the following new subparagraph:

"(F) in paragraph (2)(B)(ii), by striking 'practical' and inserting 'practicable';".

42 USC 1396i.

(J) Section 411(l)(6) of MCCA is amended by adding at the end the following new subparagraph:

"(F) Section 1910(b)(1) of the Social Security Act, as redesignated by section 4212(e)(3)(C) of OBRA, is amended by inserting 'or section 1919' after '1902(a)(28)'.".

42 USC 1395i-3 note.

(K) Section 411(l)(9)(B)(ii) of MCCA is amended by striking "(c) as subsection (d)" and inserting "(b) as subsection (c)".

42 USC 1395i-3.

(L) Section 411(l) of MCCA is further amended by adding at the end the following new paragraph:

"(11) SECTION 4203.—Section 1819(h)(5) of the Social Security Act, as added by section 4203(a)(2) of OBRA, is amended by striking '(iii), and (iv) of paragraph (2)(A)' and inserting 'and (iii) of paragraph (2)(B)'.".

(28) SECTION 411(n).—Section 411(n) of MCCA is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph: 42 USC 1396a and note.

"(3) SECTION 9116.—Subsection (d) of section 9116 of OBRA is amended to read as follows:

" '(d) CONFORMING AMENDMENT.—Section 1923(a)(2) of the Social Security Act, as amended by section 4118(p)(9) of this Act, is amended by adding at the end the following new subparagraph:

" ' "(E) Section 1634(d) of this Act (relating to individuals who lose eligibility for SSI benefits due to entitlement to early widow's or widower's insurance benefits under section 202 (e) or (f) of this Act)." '.". Insurance.

102 STAT. 2424

(29) SECTION 411(p).—Section 411 of MCCA is amended by adding at the end the following new subsection:

"(p) MISCELLANEOUS.—Section 2312(c) of the Deficit Reduction Act of 1984, as amended by section 9320(a) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking 'end' and inserting 'ends'.".

(30) SECTION 428.—(A) Subsection (c)(1) of section 1140 of the Social Security Act, as added by section 428(a) of MCCA, is amended to read as follows:

"(c)(1) The provisions of section 1128A (other than subsections (a), (b), (f), (h), and (i)) shall apply to civil money penalties under subsection (b) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(B) Section 428(b) of MCCA is amended by striking "MEDICAL" and inserting "MEDICARE".

(e) EXTENSION OF PILOT PROGRAM.—The Secretary of Health and Human Services shall extend through December 31, 1989, the pilot test program, being conducted by States under the Annual Grant Award Study established by the Joint State/Federal Cash Management Reform Task Force, on the same terms and conditions that existed as of September 30, 1988.

(f) MISCELLANEOUS CORRECTIONS.—

(1) Section 1866 of the Social Security Act (42 U.S.C. 1395cc) is amended by striking subsection (f).

(2) Section 1915(a)(2) of the Social Security Act, as amended by section 8(h)(2) of Public Law 100-93, is amended by striking "Restricts" and inserting "restricts".

(3) Section 1905(o) of the Social Security Act is amended by moving the indentation of paragraph (3), as added by section 9435(b)(2) of Public Law 99-509, 2 ems to the left. 42 USC 1396d.

(4) Section 1903(m)(2)(B)(i)(II) of the Social Security Act is amended by striking "1902(a)(13)(A)(ii)" and inserting "1902(a)(10)(D)". 42 USC 1396b.

(5) Effective as of the date of the enactment of Public Law 95-292, section 226(a) of the Social Security Act (42 U.S.C. 426(a)) is amended by striking "condition specified in paragraph (1)" and inserting "condition specified in paragraph (2)". Effective date.

(g) EFFECTIVE DATE.—(1) The amendments made by subsections (a), (b), and (d) shall be effective as if included in the enactment of the Medicare Catastrophic Coverage Act of 1988. 42 USC 704 note.

(2) The amendments made by subsection (c) and subsection (f) (other than paragraph (5)) shall take effect on the date of the enactment of this Act.

(h) QUALITY CONTROL TRANSITION.—There shall not be taken in account, for purposes of section 1903(u) of the Social Security Act, payments and expenditures for medical assistance which are made on or after January 1, 1989, and before July 1, 1989, and which are attributable to medicare-cost sharing for qualified medicare beneficiaries (as defined in section 1905(p) of such Act). 42 USC 1396b note.

SEC. 609. EXTENSION OF QUALITY CONTROL PENALTY MORATORIUM.

(a) MORATORIUM EXTENDED.—Section 403 of the Social Security Act (as amended by section 201(c)(2) of this Act) is further amended by adding at the end the following new subsection:

Effective date. Territories, U.S.

102 STAT. 2425

"(m)(1) During the 12-month period beginning on July 1, 1988 (in this subsection referred to as the 'moratorium period'), the Secretary shall not impose any reductions in payments to States pursuant to subsection (i) (or prior regulations), or pursuant to any comparable provision of law relating to the programs under this part in Puerto Rico, Guam, the Virgin Islands, American Samoa, or the Northern Mariana Islands.

"(2) During the moratorium period—

"(A) the Secretary and the States shall continue to operate the quality control systems in effect under this part, and to calculate the error rates under the provisions referred to in paragraph (1), including the process of requesting and reviewing waivers; and

"(B) the Departmental Grant Appeals Board shall, notwithstanding paragraph (1), review disallowances for fiscal year 1981 and thereafter and hear appeals with respect thereto (but collection of disallowances owed as a result of Departmental Grant Appeals Board decisions shall not occur).".

(b) CONFORMING AMENDMENTS.—(1) Subparagraph (A) of section 12301(c)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) is amended by striking "title IV-A and" and inserting in lieu thereof "title".

42 USC 603 note.

(2) Paragraph (2) of section 12301(c) of such Act is amended by inserting "under title XIX" before ", and shall reduce payments".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on July 1, 1988.

TITLE VII—FUNDING PROVISIONS

SEC. 701. TEMPORARY EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NONTAX DEBTS OWED TO FEDERAL AGENCIES.

(a) GENERAL RULE.—Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking "before July 1, 1988" and inserting "on or before January 10, 1994".

26 USC 6402 note.

(b) COORDINATION OF DISCLOSURE PROVISIONS.—

(1) IN GENERAL.—Paragraph (10) of section 6103(l) of the Internal Revenue Code of 1986 (relating to disclosure of certain information to agencies requesting a reduction under section 6402(c) or 6402(d)) is amended to read as follows:

"(10) DISCLOSURE OF CERTAIN INFORMATION TO AGENCIES REQUESTING A REDUCTION UNDER SECTION 6402(c) OR 6402(d).—

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon receiving a written request, disclose to officers and employees of any agency seeking a reduction under subsection (c) or (d) of section 6402—

"(i) taxpayer identity information with respect to the taxpayer against whom such a reduction was made or not made and with respect to any other person filing a joint return with such taxpayer,

"(ii) the fact that a reduction has been made or has not been made under such subsection with respect to such taxpayer,

"(iii) the amount of such reduction,

"(iv) whether such taxpayer filed a joint return, and

"(v) the fact that a payment was made (and the amount of the payment) to the spouse of the taxpayer on the basis of a joint return.

(1) CREDIT.—Subsection (e) of section 21 of such Code is amended by adding at the end thereof the following new paragraph:

"(9) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO SERVICE PROVIDER.—No credit shall be allowed under subsection (a) for any amount paid to any person unless—

"(A) the name, address, and taxpayer identification number of such person are included on the return claiming the credit, or

"(B) if such person is an organization described in section 501(c)(3) and exempt from tax under section 501(a), the name and address of such person are included on the return claiming the credit.

In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required."

(2) EXCLUSION.—Subsection (e) of section 129 of such Code is amended by adding at the end thereof the following new paragraph:

"(9) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO SERVICE PROVIDER.—No amount paid or incurred by an employer for dependent care assistance provided to an employee shall be excluded from the gross income of such employee unless—

"(A) the name, address, and taxpayer identification number of the person performing the services are included on the return to which the exclusion relates, or

"(B) if such person is an organization described in section 501(c)(3) and exempt from tax under section 501(a), the name and address of such person are included on the return to which the exclusion relates.

In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required."

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 6109(a) of such Code is amended by striking "shall furnish" and inserting "or whose identifying number is required to be shown on a return of another person shall furnish".

26 USC 21 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 704. TAXPAYER IDENTIFICATION NUMBER REQUIRED FOR DEPENDENTS WHO HAVE ATTAINED AGE 2.

102 STAT. 2428

(a) GENERAL RULE.—Paragraph (2) of section 6109(e) of the Internal Revenue Code of 1986 (relating to furnishing number for certain dependents) is amended by striking "age of 5" and inserting "age of 2".

26 USC 6109 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1989.

Approved October 13, 1988.

LEGISLATIVE HISTORY—H.R. 1720 (S. 1511):

HOUSE REPORTS: No. 100-159, Pt. 1 (Comm. on Ways and Means), Pt. 2 (Comm. on Education and Labor), and Pt. 3 (Comm. on Energy and Commerce) and No. 100-998 (Comm. of Conference).
SENATE REPORTS: No. 100-377 accompanying S. 1511 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 15, 16, considered and passed House.
Vol. 134 (1988): June 13, 14, 16, S. 1511 considered in Senate; proceedings vacated and H.R. 1720, amended, passed in lieu.
Sept. 29, Senate agreed to conference report.
Sept. 30, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Oct. 13, Presidential remarks.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.— 102 STAT. 2426
Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records, locating any person with respect to whom a reduction under subsection (c) or (d) of section 6402 is sought for purposes of collecting the debt with respect to which the reduction is sought, or in the defense of any litigation or administrative procedure ensuing from a reduction made under subsection (c) or (d) of section 6402."

(2) CONFORMING AMENDMENTS.—

(A) Subsection (l) of section 6103 of such Code is amended by striking paragraph (11) and by redesignating paragraph (12) as paragraph (11).

(B) Paragraphs (3)(A) and (4) of section 6103(p) of such Code are each amended by striking "(10), (11), or (12)" each place it appears and inserting "(10), or (11)".

(C) Paragraph (2) of section 7213(a) of such Code is amended by striking "(9), (10), or (11)" and inserting "(9), or (10)".

(3) EFFECTIVE DATES.— 26 USC 6103 note.

(A) IN GENERAL.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(B) SPECIAL RULE.—Nothing in section 2653(c) of the Deficit Reduction Act of 1984 shall be construed to limit the application of paragraph (10) of section 6103(l) of the Internal Revenue Code of 1986 (as amended by this subsection).

SEC. 702. LIMITATION ON USE OF REIMBURSEMENT ARRANGEMENTS TO AVOID 2-PERCENT FLOOR.

(a) GENERAL RULE.—Section 62 of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN ARRANGEMENTS NOT TREATED AS REIMBURSEMENT ARRANGEMENTS.—For purposes of subsection (a)(2)(A), an arrangement shall in no event be treated as a reimbursement or other expense allowance arrangement if—

"(1) such arrangement does not require the employee to substantiate the expenses covered by the arrangement to the person providing the reimbursement, or

"(2) such arrangement provides the employee the right to retain any amount in excess of the substantiated expenses covered under the arrangement.

The substantiation requirements of the preceding sentence shall not apply to any expense to the extent that substantiation is not required under section 274(d) for such expense by reason of the regulations prescribed under the 2nd sentence thereof."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988. 26 USC 62 note.

SEC. 703. MODIFICATIONS TO DEPENDENT CARE CREDIT AND EXCLUSION FOR DEPENDENT CARE ASSISTANCE.

(a) REDUCTION IN MAXIMUM AGE OF NONHANDICAPPED QUALIFYING INDIVIDUAL.—Subsections (b)(1)(A) and (e)(5)(B) of section 21 of the 102 STAT. 2427
Internal Revenue Code of 1986 are each amended by striking "age of 15" and inserting "age of 13".

(b) LIMITATION ON CREDIT REDUCED BY AMOUNT OF EXCLUSION.—Subsection (c) of section 21 of such Code is amended by adding at the end thereof the following new sentence:

"The amount determined under paragraph (1) or (2) (whichever is applicable) shall be reduced by the aggregate amount excludable from gross income under section 129 for the taxable year."

(c) REQUIREMENT OF FURNISHING IDENTIFYING INFORMATION WITH RESPECT TO SERVICE PROVIDER.—

Public Law 100-505
100th Congress

102 STAT. 2533

An Act

To authorize the Secretary of Health and Human Services to make grants for demonstration projects for foster care and residential care of infants and young children abandoned in hospitals, and for other purposes.

Oct. 18, 1988
[S. 945]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Abandoned Infants Assistance Act of 1988.
42 USC 670 note.

This Act may be cited as the "Abandoned Infants Assistance Act of 1988".

SEC. 2. FINDINGS.

42 USC 670 note.

The Congress finds that—

(1) throughout the Nation, the number of infants and young children who have been exposed to drugs taken by their mothers during pregnancy has increased dramatically;

(2) the inability of parents who abuse drugs to provide adequate care for such infants and young children and a lack of suitable shelter homes for such infants and young children have led to the abandonment of such infants and young children in hospitals for extended periods;

(3) the vast majority of these infants and young children will be medically cleared for discharge, yet remain in hospitals as boarder babies;

(4) hospital-based child care for these infants and young children is extremely costly and deprives them of an adequate nurturing environment;

(5) training is inadequate for foster care personnel working with medically fragile infants and young children and infants and young children exposed to drugs;

(6) a particularly devastating development is the increase in the number of cases of acquired immune deficiency syndrome in infants and young children, and the number of such cases has doubled within the last 13 months;

(7) more than 80 percent of infants and young children with acquired immune deficiency syndrome have at least one parent who is an intravenous drug abuser;

(8) infants and young children with acquired immune deficiency syndrome are particularly difficult to place in foster homes, and are being abandoned in hospitals in increasing numbers by mothers dying of acquired immune deficiency syndrome, or by parents incapable of providing adequate care;

(9) there is a need for comprehensive services for such infants and young children, including foster family care services, case management services, family support services, respite and crisis intervention services, counseling services, and group residential home services; and

(10) there is a need for the development of funding strategies that coordinate and make the optimal use of all private resources, and Federal, State, and local resources, to establish and maintain such services.

102 STAT. 2534

TITLE I—FOSTER CARE AND RESIDENTIAL CARE OF INFANTS AND YOUNG CHILDREN ABANDONED IN HOSPITALS

42 USC 670 note.

SEC. 101. ESTABLISHMENT OF PROGRAM OF DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary of Health and Human Services may make grants to public and nonprofit private entities for the

Corporations.
AIDS.

purpose of developing, implementing, and operating projects to demonstrate methods—

(1) to prevent the abandonment of infants and young children;

(2) to identify and address the needs of abandoned infants and young children, particularly those with acquired immune deficiency syndrome;

(3) to assist abandoned infants and young children, particularly those with acquired immune deficiency syndrome, to reside with their natural families or in foster care, as appropriate;

(4) to recruit, train, and retain foster families for abandoned infants and young children, particularly those with acquired immune deficiency syndrome;

(5) to carry out residential care programs for abandoned infants and young children, particularly those with acquired immune deficiency syndrome;

(6) to carry out programs of respite care for families and foster families of infants and young children with acquired immune deficiency syndrome; and

(7) to recruit and train health and social services personnel to work with families, foster care families, and residential care programs for abandoned infants and young children, particularly those with acquired immune deficiency syndrome.

(b) CASE PLAN WITH RESPECT TO FOSTER CARE.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, if the applicant expends the grant to carry out any program of providing care to infants and young children in foster homes or in other nonmedical residential settings away from their parents, the applicant will ensure that—

(1) a case plan of the type described in paragraph (1) of section 475 of the Social Security Act is developed for each such infant and young child (to the extent that such infant and young child is not otherwise covered by such a plan); and

(2) the program includes a case review system of the type described in paragraph (5) of such section (covering each such infant and young child who is not otherwise subject to such a system).

(c) ADMINISTRATION OF GRANT.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees—

(1) to use the funds provided under this section only for the purposes specified in the application submitted to, and approved by, the Secretary pursuant to subsection (d);

102 STAT. 2535

(2) to establish such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement and accounting of Federal funds paid to the applicant under this section;

Reports.

(3) to report to the Secretary annually on the utilization, cost, and outcome of activities conducted, and services furnished, under this section; and

(4) that if, during the majority of the 180-day period preceding the date of the enactment of this Act, the applicant has carried out any program with respect to the care of abandoned infants and young children, the applicant will expend the grant only for the purpose of significantly expanding, in accordance with subsection (a), activities under such program above the level provided under such program during the majority of such period.

(d) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless—

(1) an application for the grant is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

42 USC 670 note.

TITLE II—MEDICAL COSTS OF TREATMENT WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 201. STUDY AND REPORT ON ASSISTANCE.

(a) STUDY.—The Secretary shall conduct a study for the purpose of—

(1) determining cost-effective methods for providing assistance to individuals for the medical costs of treatment of conditions arising from infection with the etiologic agent for acquired immune deficiency syndrome, including determining the feasibility of risk-pool health insurance for individuals at risk of such infection;

(2) determining the extent to which Federal payments under title XIX of the Social Security Act are being expended for medical costs described in paragraph (1); and

(3) providing an estimate of the extent to which such Federal payments will be expended for such medical costs during the 5-year period beginning on the date of the enactment of this Act.

(b) REPORT.—The Secretary shall, not later than 12 months after the date of the enactment of this Act, complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

102 STAT. 2537

42 USC 670 note.

TITLE III—GENERAL PROVISIONS

SEC. 301. DEFINITIONS.

For purposes of this Act:

(1) The term "acquired immune deficiency syndrome" includes infection with the etiologic agent for such syndrome, any condition indicating that an individual is infected with such etiologic agent, and any condition arising from such etiologic agent.

(2) The term "Secretary" means the Secretary of Health and Human Services.

Approved October 18, 1988.

LEGISLATIVE HISTORY—S. 945 (H.R. 4843):

HOUSE REPORTS: No. 100-821, Pt. 1, accompanying H.R. 4843 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD:

Vol. 133 (1987): Aug. 5, considered and passed Senate.

Vol. 134 (1988): Sept. 13, considered and passed House, amended.

Oct. 4, Senate concurred in House amendments.

"(ii) in the case of a governing authority organized as a private non-profit entity, members who broadly represent or are knowledgeable about the needs of the clients served by the system including the chairperson of the advisory council of such system.

"(2) The governing authority established under paragraph (1) shall—

"(A) be responsible for the planning, design, implementation, and functioning of the system; and

"(B) consistent with subparagraph (A), jointly develop the annual priorities of the system with the advisory council.".

SEC. 5. ADVISORY COUNCIL REPORT.

Section 105(a)(7) (42 U.S.C. 10805(a)(7)) is amended by striking out the period and inserting in lieu thereof the following: ", including a section prepared by the advisory council that describes the activities of the council and its assessment of the operations of the system;".

SEC. 6. ACCESS TO RECORDS.

(a) SYSTEM REQUIREMENT.—Section 105(a)(4)(B) (42 U.S.C. 10805(a)(4)(B)) is amended by striking out "any individual" and inserting in lieu thereof "any individual (including an individual who has died or whose whereabouts are unknown)".

(b) DEFINITION OF RECORDS.—Section 106(b) (42 U.S.C. 10806(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) As used in this section, the term 'records' includes reports prepared by any staff of a facility rendering care and treatment or reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, and injury occurring at such facility that describe incidents of abuse, neglect, and injury occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(B) An eligible system shall have access to the type of records described in subparagraph (A) in accordance with the provisions of subsection (a) and paragraphs (1) and (2) of subsection (b).".

SEC. 7. MISCELLANEOUS PROVISIONS.

Health and medical care.

(a) SUBCONTRACTING.—Section 104(a)(2) (42 U.S.C. 10804(a)(2)) is amended by striking out "which, on the date of enactment of this Act" and inserting in lieu thereof "including, in particular, groups run by individuals who have received or are receiving mental health services, or the family members of such individuals, which".

(b) TECHNICAL ASSISTANCE LIMITATIONS.—

(1) STATE ASSISTANCE.—Section 104(b)(2) (42 U.S.C. 10804(b)(2)) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".

102 STAT. 2545

(2) ASSISTANCE BY THE SECRETARY.—Section 10 (42 U.S.C. 10825) is amended to read as follows:

"TECHNICAL ASSISTANCE

"SEC. 115. The Secretary shall use not more than 2 percent of the amounts appropriated under section 117 to provide technical assistance to eligible systems with respect to activities carried out under this title, consistent with requests by such systems for such assistance.".

(c) ADDITIONAL SYSTEM REQUIREMENTS.—Section 105(a) (42 U.S.C. 10805(a)) (as amended by section 5), is further amended by adding at the end thereof the following new paragraphs:

"(8) on an annual basis, provide the public with an opportunity to comment on the priorities established by, and the activities of, the system; and

"(9) establish a grievance procedure for clients or prospective clients of the system to assure that mentally ill individuals have full access to the services of the system.".

(d) APPLICATIONS.—Section 111 (42 U.S.C. 10821) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) Applications submitted under this section shall remain in effect for a 3-year period, and the assurances required under this section shall be for the same 3-year period.".

(e) ALLOTMENT FORMULA.—Section 112(a) (42 U.S.C. 10822(a)) is amended—

(1) in paragraph (2) to read as follows:

"(2) Notwithstanding paragraph (1) and subject to the availability of appropriations under section 117—

"(A) if the total amount appropriated in a fiscal year is at least $13,000,000—

"(i) the amount of the allotment of the eligible system of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico shall be the greater of— District of Columbia. Puerto Rico.

"(I) $140,000; or

"(II) $125,000 in addition to the amount determined under paragraph (3); and

"(ii) the amount of the allotment of the eligible system of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands shall be the greater of— Territories, U.S.

"(I) $75,000; or

"(II) $67,000 in addition to the amount determined under paragraph (3); and

"(B) if the total amount appropriated in a fiscal year is less than $13,000,000, the amount of the allotment of the eligible system—

"(i) of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico shall not be less than $125,000 in addition to the amount determined under paragraph (3); and District of Columbia. Puerto Rico.

"(ii) of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands shall not be less than $67,000 in addition to the amount determined under paragraph (3)."; and Territories, U.S.

102 STAT. 2546

(2) by adding at the end thereof the following new paragraph:

"(3) In any case in which the total amount appropriated under section 117 for a fiscal year exceeds the total amount appropriated under such section, as in effect on the day before the date of enactment of this paragraph, for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the allotments under clauses (i)(II) and (ii)(II) of subparagraph (A) and clauses (i) and (ii) of subparagraph (B) of paragraph (2) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 117 for the fiscal year for which the increase in minimum allotment is made, minus;

"(B) the total amount appropriated under section 117 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 117 for such preceding fiscal year.".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 117 (42 U.S.C. 10827) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 117. For allotments under this title, there are authorized to be appropriated $14,300,000 for fiscal year 1989, and such sums as may be necessary for fiscal year 1990 and fiscal year 1991.".

42 USC 10827 note.

SEC. 8. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act, other than the amendment made by section 7(f), shall become effective on the date of the enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—The amendment made by section 7(f) shall become effective on October 1, 1988.

Approved October 20, 1988.

LEGISLATIVE HISTORY—S. 2393 (H.R. 5155):

HOUSE REPORTS: No. 100-903 accompanying H.R. 5155 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-454 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 9, considered and passed Senate.
Sept. 20, H.R. 5155 considered and passed House; proceedings vacated and S. 2393, amended, passed in lieu.
Oct. 4, Senate concurred in certain House amendment with an amendment and disagreed to another.
Oct. 5, House receded and concurred in Senate amendment.

An Act

Oct. 31, 1988
[S. 136]

To improve the health status of Native Hawaiians, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Native Hawaiian Health Care Act of 1988.
42 USC 11701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native Hawaiian Health Care Act of 1988".

42 USC 11701.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the United States retains the legal responsibility to enforce the administration of the public trust responsibility of the State of Hawaii for the betterment of the conditions of Native Hawaiians under section 5(f) of Public Law 86-3 (73 Stat. 6; commonly referred to as the "Hawaii Statehood Admissions Act");

(2) in furtherance of the State of Hawaii's public trust responsibility for the betterment of the conditions of Native Hawaiians, contributions by the United States to the provision of comprehensive health promotion and disease prevention services to maintain and improve the health status of Native Hawaiians are consistent with the historical and unique legal relationship of the United States with the government that represented the indigenous native people of Hawaii; and

(3) it is the policy of the United States to raise the health status of Native Hawaiians to the highest possible level and to encourage the maximum participation of Native Hawaiians in order to achieve this objective.

42 USC 11702.

SEC. 3. COMPREHENSIVE HEALTH CARE MASTER PLAN FOR NATIVE HAWAIIANS.

Grants.
Contracts.

(a) DEVELOPMENT.—The Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of developing a Native Hawaiian comprehensive health care master plan designed to promote comprehensive health promotion and disease prevention services and to maintain and improve the health status of Native Hawaiians. The master plan shall be based upon an assessment of the health care status and health care needs of Native Hawaiians.

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(e) TECHNICAL ASSISTANCE TO GRANTEES.—The Secretary may, without charge to any grantee under subsection (a), provide technical assistance (including training) with respect to the planning, development, and operation of projects described in such subsection. The Secretary may provide such technical assistance directly, through contracts, or through grants. Contracts.

(f) TECHNICAL ASSISTANCE WITH RESPECT TO PROCESS OF APPLYING FOR GRANT.—The Secretary may provide technical assistance (including training) to public and nonprofit private entities with respect to the process of applying to the Secretary for a grant under subsection (a). The Secretary may provide such technical assistance directly, through contracts, or through grants. Corporations. Contracts.

SEC. 102. EVALUATIONS, STUDIES, AND REPORTS BY SECRETARY.

(a) EVALUATIONS OF DEMONSTRATION PROJECTS.—The Secretary shall, directly or through contracts with public and nonprofit private entities, provide for evaluations of projects carried out under section 101 and for the dissemination of information developed as result of such projects. Contracts. Corporations.

(b) STUDY AND REPORT ON NUMBER OF ABANDONED INFANTS AND YOUNG CHILDREN.—

(1) The Secretary shall conduct a study for the purpose of determining—

(A) an estimate of the number of infants and young children abandoned in hospitals in the United States and the number of such infants who have acquired immune deficiency syndrome; and

(B) an estimate of the annual costs incurred by the Federal Government and by State and local governments in providing housing and care for such infants and young children.

102 STAT. 2536

(2) The Secretary shall, not later than 12 months after the date of the enactment of this Act, complete the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

(c) STUDY AND REPORT ON EFFECTIVE CARE METHODS.—

(1) The Secretary shall conduct a study for the purpose of determining the most effective methods for responding to the needs of abandoned infants and young children.

(2) The Secretary shall, not later than April 1, 1991, complete the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

SEC. 103. DEFINITION.

For purposes of this title, the term "abandoned infants and young children" means infants and young children who are medically cleared for discharge from acute care hospital setting, but who remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of making grants under section 101, there are authorized to be appropriated $10,000,000 for fiscal year 1989, $12,000,000 for fiscal year 1990, and $15,000,000 for fiscal year 1991.

SEC. 105. TERMINATION OF PROGRAM.

No grant may be made under section 101 after September 30, 1991.

Public Law 100-509
100th Congress

102 STAT. 2543

An Act

To amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize such Act, and for other purposes.

Oct. 20, 1988
[S. 2393]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1988.
42 USC 10801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1988".

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.).

SEC. 3. SCOPE OF COVERAGE.

Section 102 (42 U.S.C. 10802) is amended—

(1) in paragraph (1), by inserting "or death" after "caused, injury";

(2) in paragraph (3)—

(A) by inserting "(i)" after the subparagraph designation in subparagraph (B);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof the following: ", even if the whereabouts of such inpatient or resident are unknown;"; and

(C) by adding at the end thereof the following new clauses:

"(ii) who is in the process of being admitted to a facility rendering care or treatment, including persons being transported to such a facility; or";

Health care facilities.

"(iii) who is involuntarily confined in a municipal detention facility for reasons other than serving a sentence resulting from conviction for a criminal offense."; and

(3) in paragraph (4)—

(A) by inserting "or death" after "injury" each place such word occurs; and

(B) by inserting before the period at the end thereof the following: ", including the failure to maintain adequate numbers of appropriately trained staff".

SEC. 4. ESTABLISHMENT OF A GOVERNING AUTHORITY.

Section 105 (42 U.S.C. 10805) is amended—

(1) in subsection (a)(6), by striking out "a board" and inserting in lieu thereof "an advisory council"; and

(2) by adding at the end thereof the following new subsection:

102 STAT. 2544

State and local governments.

"(c)(1)(A) Each system established in a State, through allotments received under section 103, to protect and advocate the rights of mentally ill individuals shall have a governing authority.

"(B) In States in which the governing authority is organized as a private non-profit entity with a multi-member governing board, or a public system with a multi-member governing board, such governing board shall be selected according to the policies and procedures of the system. The governing board shall be composed of—

"(i) members (to be selected no later than October 1, 1990) who broadly represent or are knowledgeable about the needs of the clients served by the system; and

To the extent practicable, assessments made as of the date of such grant or contract shall be used by Papa Ola Lokahi, except that any such assessment shall be updated as appropriate.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $700,000 for fiscal year 1990 to carry out subsection (a).

SEC. 4. NATIVE HAWAIIAN HEALTH CENTERS. 42 USC 11703.

(a) COMPREHENSIVE HEALTH PROMOTION, DISEASE PREVENTION, AND PRIMARY HEALTH SERVICES.—(1)(A) The Secretary, in consultation with Papa Ola Lokahi, may make grants to, or enter into contracts with, any qualified entity for the purpose of providing comprehensive health promotion and disease prevention services as well as primary health services to Native Hawaiians. Grants. Contracts.

102 STAT. 2917

(B) In making grants and entering into contracts under this paragraph, the Secretary shall give preference to Native Hawaiian health centers and Native Hawaiian organizations, and, to the extent feasible, health promotion and disease prevention services shall be performed through Native Hawaiian health centers.

(2) In addition to paragraph (1), the Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of planning Native Hawaiian health centers to serve the health needs of Native Hawaiian communities on each of the islands of O'ahu, Moloka'i, Maui, Hawai'i, Lana'i, Kaua'i, and Ni'ihau in the State of Hawaii.

(b) QUALIFIED ENTITY.—An entity is a qualified entity for purposes of subsection (a)(1) if the entity is—

(1) a Native Hawaiian health center;

(2) a Native Hawaiian organization; or

(3) a public or nonprofit private health provider.

(c) SERVICES TO BE PROVIDED.—(1) Each recipient of funds under subsection (a)(1) shall provide the following services:

(A) Outreach services to inform Native Hawaiians of the availability of health services.

(B) Education in health promotion and disease prevention of the Native Hawaiian population by (wherever possible) Native Hawaiian health care practitioners, community outreach workers, counselors, and cultural educators.

(C) Services of physicians, physicians' assistants, or nurse practitioners.

(D) Immunizations.

(E) Prevention and control of diabetes, high blood pressure, and otitis media.

(F) Pregnancy and infant care.

(G) Improvement of nutrition.

(2) In addition to the mandatory services under paragraph (1), the following services may be provided pursuant to subsection (a)(1):

(A) Identification, treatment, control, and reduction of the incidence of preventable illnesses and conditions endemic to Native Hawaiians.

(B) Collection of data related to the prevention of diseases and illnesses among Native Hawaiians.

(C) Services within the meaning of the terms "health promotion", "disease prevention", and "primary health services", as such terms are defined in section 8, which are not specifically referred to in paragraph (1) of this subsection.

(3) The health care services referred to in paragraphs (1) and (2) which are provided under grants or contracts under subsection (a)(1) may be provided by traditional Native Hawaiian healers.

(d) LIMITATION ON NUMBER OF ENTITIES.—During a fiscal year, the Secretary under this Act may make a grant to, or hold a contract with, not more than nine qualified entities in the State of Hawaii, as follows: Grants. Contracts.

(1) Two entities serving individuals on Kaua'i, from which individuals on Ni'ihau shall also be served.

(2) Two entities serving individuals on O'ahu.

(3) One entity serving individuals on Moloka'i, from which individuals on Lana'i shall also be served.

102 STAT. 2918

(4) Two entities serving individuals on Maui.

(5) Two entities serving individuals on Hawai'i.

(e) MATCHING FUNDS.—(1) The Secretary may not make a grant or provide funds pursuant to a contract under subsection (a)(1) to an entity—

(A) in an amount exceeding 75 percent of the costs of providing health services under the grant or contract; and

(B) unless the entity agrees that the entity will make available, directly or through donations to the entity, non-Federal contributions toward such costs in an amount equal to not less than $1 (in cash or in kind under paragraph (2)) for each $3 of Federal funds provided in such grant or contract.

(2) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government or services assisted or subsidized to any significant extent by the Federal Government may not be included in determining the amount of such non-Federal contributions.

(3) The Secretary may waive the requirement established in paragraph (1) if—

(A) the entity involved is a nonprofit private entity described in subsection (b); and

(B) the Secretary, in consultation with Papa Ola Lokahi, determines that it is not feasible for the entity to comply with such requirement.

(f) RESTRICTION ON USE OF GRANT AND CONTRACT FUNDS.—The Secretary may not make a grant to, or enter into a contract with, an entity under subsection (a)(1) unless the entity agrees that amounts received pursuant to such subsection will not, directly or through contract, be expended—

(1) for any purpose other than the purposes described in subsection (c);

(2) to provide inpatient services;

(3) to make cash payments to intended recipients of health services; or

(4) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment.

(g) LIMITATION ON CHARGES FOR SERVICES.—The Secretary may not make a grant, or enter into a contract with, an entity under subsection (a)(1) unless the entity agrees that, whether health services are provided directly or through contract—

(1) health services under the grant or contract will be provided without regard to ability to pay for the health services; and

(2) the entity will impose a charge for the delivery of health services, and such charge—

Public information.

(A) will be made according to a schedule of charges that is made available to the public, and

(B) will be adjusted to reflect the income of the individual involved.

(h) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated $5,000,000 for fiscal year 1991 and $10,000,000 for fiscal year 1992 to carry out subsection (a)(1).

(2) There is authorized to be appropriated for fiscal year 1990 $900,000 to carry out subsection (a)(2).

102 STAT. 2919

42 USC 11704.

SEC. 5. ADMINISTRATIVE GRANT FOR PAPA OLA LOKAHI.

Contracts.

(a) IN GENERAL.—In addition to any other grant or contract under this Act, the Secretary may make grants to, or enter into contracts with, Papa Ola Lokahi for—

(1) coordination, implementation, and updating (as appropriate) of the comprehensive health care master plan developed pursuant to section 3;

(2) training for the persons described in section 4(c)(1)(B); or

(3) identification of and research into the diseases that are most prevalent among Native Hawaiians, including behavioral, biomedical, epidemiological, and health services. Research and development. Diseases.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 for each of the fiscal years 1990, 1991, and 1992 to carry out subsection (a).

SEC. 6. ADMINISTRATION OF GRANTS AND CONTRACTS. 42 USC 11705.

(a) TERMS AND CONDITIONS.—The Secretary shall include in any grant made or contract entered into under this Act such terms and conditions as the Secretary considers necessary or appropriate to ensure that the objectives of such grant or contract are achieved.

(b) PERIODIC REVIEW.—The Secretary shall periodically evaluate the performance of, and compliance with, grants and contracts under this Act.

(c) ADMINISTRATIVE REQUIREMENTS.—The Secretary may not make a grant or enter into a contract under this Act with an entity unless the entity—

(1) agrees to establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant or contract;

(2) agrees to ensure the confidentiality of records maintained on individuals receiving health services under the grant or contract; Classified information. Records.

(3) with respect to providing health services to any population of Native Hawaiians a substantial portion of which has a limited ability to speak the English language—

(A) has developed and has the ability to carry out a reasonable plan to provide health services under the grant or contract through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and

(B) has designated at least one individual, fluent in both English and the appropriate language, to assist in carrying out the plan;

(4) with respect to health services that are covered in the plan of the State of Hawaii approved under title XIX of the Social Security Act—

(A) if the entity will provide under the grant or contract any such health services directly—

(i) the entity has entered into a participation agreement under such plan; and

(ii) the entity is qualified to receive payments under such plan; and

(B) if the entity will provide under the grant or contract any such health services through a contract with an organization—

(i) the organization has entered into a participation agreement under such plan; and

(ii) the organization is qualified to receive payments under such plan; and

(5) agrees to submit to the Secretary and to Papa Ola Lokahi an annual report that describes the utilization and costs of health services provided under the grant or contract (including the average cost of health services per user) and that provides such other information as the Secretary determines to be appropriate. Reports.

(d) CONTRACT EVALUATION.—(1) If, as a result of evaluations conducted by the Secretary, the Secretary determines that an entity has not complied with or satisfactorily performed a contract entered into under section 4, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future

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occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such entity and is authorized to enter into a contract under section 4 with another entity referred to in section 4(b) that provides services to the same population of Native Hawaiians which is served by the entity whose contract is not renewed by reason of this subsection.

(2) In determining whether to renew a contract entered into with an entity under this Act, the Secretary shall consider the results of evaluation under this section.

(3) All contracts entered into by the Secretary under this Act shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and may be exempted from the provisions of the Act of August 24, 1935 (40 U.S.C. 270a et seq.).

(4) Payments made under any contract entered into under this Act may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this section.

(e) LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE EXPENSES.—Except for grants and contracts under section 5, the Secretary may not make a grant to, or enter into a contract with, an entity under this Act unless the entity agrees that the entity will not expend more than 10 percent of amounts received pursuant to this Act for the purpose of administering the grant or contract.

(f) REPORT.—(1) For each fiscal year during which an entity receives or expends funds pursuant to a grant or contract under this Act, such entity shall submit to the Secretary and to Papa Ola Lokahi a quarterly report on—

(A) activities conducted by the entity under the grant or contract;

(B) the amounts and purposes for which Federal funds were expended; and

(C) such other information as the Secretary may request.

Records.

(2) The reports and records of any entity which concern any grant or contract under this Act shall be subject to audit by the Secretary, the Inspector General of Health and Human Services, and the Comptroller General of the United States.

(g) ANNUAL PRIVATE AUDIT.—The Secretary shall allow as a cost of any grant made or contract entered into under this Act the cost of an annual private audit conducted by a certified public accountant.

42 USC 11706.

SEC. 7. ASSIGNMENT OF PERSONNEL.

Contracts.
Diseases.

(a) IN GENERAL.—The Secretary is authorized to enter into an agreement with any entity under which the Secretary is authorized to assign personnel of the Department of Health and Human Services with expertise identified by such entity to such entity on detail for the purposes of providing comprehensive health promotion and disease prevention services to Native Hawaiians.

(b) APPLICABLE FEDERAL PERSONNEL PROVISIONS.—Any assignment of personnel made by the Secretary under any agreement entered into under the authority of paragraph (1) shall be treated as an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of title 5, United States Code.

42 USC 11707.

SEC. 8. DEFINITIONS.

For purposes of this Act:

(1) DISEASE PREVENTION.—The term "disease prevention" includes—

(A) immunizations,

(B) control of high blood pressure,

(C) control of sexually transmittable diseases,

(D) prevention and control of diabetes,

(E) control of toxic agents,

(F) occupational safety and health,
(G) accident prevention,
(H) fluoridation of water,
(I) control of infectious agents, and
(J) provision of mental health care.

(2) HEALTH PROMOTION.—The term "health promotion" includes—

(A) pregnancy and infant care, including prevention of fetal alcohol syndrome,
(B) cessation of tobacco smoking,
(C) reduction in the misuse of alcohol and drugs,
(D) improvement of nutrition,
(E) improvement in physical fitness,
(F) family planning, and
(G) control of stress.

(3) NATIVE HAWAIIAN.—The term "Native Hawaiian" means any individual who has any ancestors that were natives, prior to 1778, of the area that is now the State of Hawaii as evidenced by—

(A) genealogical records,
(B) Kupuna (elders) or Kama'aina (long-term community residents) verification, or
(C) birth records of the State of Hawaii.

(4) NATIVE HAWAIIAN HEALTH CENTER.—The term "Native Hawaiian health center" means an entity—

(A) which is organized under the laws of the State of Hawaii,
(B) which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable,
(C) which is a public or nonprofit private entity, and
(D) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services.

102 STAT. 2922

(5) NATIVE HAWAIIAN ORGANIZATION.—The term "Native Hawaiian organization" means any organization—

(A) which serves the interests of Native Hawaiians,
(B) which is—
(i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs (or portions of programs) authorized under this Act for the benefit of Native Hawaiians, and
(ii) certified by Papa Ola Lokahi as having the qualifications and capacity to provide the services, and meet the requirements, under the contract the organization enters into with, or grant the organization receives from, the Secretary under this Act,
(C) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services, and
(D) which is a public or nonprofit private entity.

(6) PAPA OLA LOKAHI.—The term "Papa Ola Lokahi" means an organization composed of—

(A) E Ola Mau;
(B) the Office of Hawaiian Affairs of the State of Hawaii;
(C) Alu Like Inc.;
(D) the University of Hawaii; and
(E) the Office of Hawaiian Health of the Hawaii State Department of Health.

(7) PRIMARY HEALTH SERVICES.—The term "primary health services" means—

(A) services of physicians, physicians' assistants and nurse practitioners;
(B) diagnostic laboratory and radiologic services;

(C) preventive health services (including children's eye and ear examinations to determine the need for vision and hearing correction, perinatal services, well child services, and family planning services);

(D) emergency medical services;

(E) transportation services as required for adequate patient care;

(F) preventive dental services; and

(G) pharmaceutical services, as may be appropriate for particular health centers.

(8) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(9) TRADITIONAL NATIVE HAWAIIAN HEALER.—The term "traditional Native Hawaiian healer" means a practitioner—

(A) who—

(i) is of Hawaiian ancestry, and

(ii) has the knowledge, skills, and experience in direct personal health care of individuals, and

(B) whose knowledge, skills, and experience are based on a demonstrated learning of Native Hawaiian healing practices acquired by—

(i) direct practical association with Native Hawaiian elders, and

(ii) oral traditions transmitted from generation to generation.

42 USC 11708.

SEC. 9. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to restrict the authority of the State of Hawaii to license health practitioners.

SEC. 10. REPEAL OF DEMONSTRATION PROJECT.

Section 205 of the Indian Health Care Improvement Act, as added by section 203(c) of the Indian Health Care Amendments of 1988, is repealed.

42 USC 11709.

SEC. 11. COMPLIANCE WITH BUDGET ACT.

Any new spending authority (described in subsection (c)(2) (A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

42 USC 11710.

SEC. 12. SEVERABILITY.

If any provision of this Act, or the application of any such provision to any person or circumstances is held to be invalid, the remainder of this Act, and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

Approved October 31, 1988.

LEGISLATIVE HISTORY—S. 136:

SENATE REPORTS: No. 100-580 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 30, considered and passed Senate.
Oct. 12, considered and passed House, amended.
Oct. 14, Senate concurred in House amendment.

Public Law 100-607
100th Congress

102 STAT. 3048

An Act

To amend the Public Health Service Act to establish certain health programs, to revise and extend certain health programs, and for other purposes.

Nov. 4, 1988
[S. 2889]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Health Omnibus Programs Extension of 1988.
42 USC 201 note.

SECTION 1. SHORT TITLE; TABLE OF TITLES.

(a) SHORT TITLE.—This Act may be cited as the "Health Omnibus Programs Extension of 1988".

(b) TABLE OF TITLES.—

Title I—National Institute on Deafness and Other Communication Disorders and Health Research Extension Act of 1988
Title II—Programs with Respect to Acquired Immune Deficiency Syndrome
Title III—Preventive Health, Health Services, and Health Promotion
Title IV—Organ Transplant Amendments of 1988
Title V—Food and Drug Administration
Title VI—Health Professions Reauthorization Act of 1988
Title VII—Nursing Shortage Reduction and Education Extension Act of 1988
Title VIII—Revision and Extension of Programs of Health Care for the Homeless
Title IX—Testing of Convicted Felons

TITLE I—NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS AND HEALTH RESEARCH EXTENSION ACT OF 1988

National Institute of Deafness and Other Communication Disorders and Health Research Extension Act of 1988.
42 USC 201 note.

SEC. 100. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "National Institute on Deafness and Other Communication Disorders and Health Research Extension Act of 1988".

(b) REFERENCES TO PUBLIC HEALTH SERVICE ACT.—Except as otherwise specifically provided, any reference made in this title to an amendment or repeal of a section or other provision shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

Subtitle A—National Institute on Deafness and Other Communication Disorders

SEC. 101. ESTABLISHMENT AND TRANSFER OF FUNCTIONS.

Title IV (42 U.S.C. 281 et seq.) is amended—

(1) in section 401(b)(1)—

(A) by striking "and Communicative" in subparagraph (J); and

(B) by adding at the end the following new subparagraph:

42 USC 281.

102 STAT. 3049

"(M) The National Institute on Deafness and Other Communication Disorders.";

(2) in the heading for subpart 10 of part C, by striking "and Communicative";

(3) in section 457—

(A) by striking "and Communicative"; and

(B) by striking "disorder, stroke," and all that follows and inserting "and disorder and stroke."; and

42 USC 285j.

(4) in Part C, by adding at the end the following new subpart:

"Subpart 13—National Institute on Deafness and Other Communication Disorders

"PURPOSE OF THE INSTITUTE

Research and development.
42 USC 285m.

"SEC. 464. The general purpose of the National Institute on Deafness and Other Communication Disorders (hereafter referred to in this subpart as the 'Institute') is the conduct and support of research and training, the dissemination of health information, and other programs with respect to disorders of hearing and other communication processes, including diseases affecting hearing, balance, voice, speech, language, taste, and smell.

"NATIONAL DEAFNESS AND OTHER COMMUNICATION DISORDERS PROGRAM

42 USC 285m-1.

"SEC. 464A. (a) The Director of the Institute, with the advice of the Institute's advisory council, shall establish a National Deafness and Other Communication Disorders Program (hereafter in this section referred to as the 'Program'). The Director or the Institute shall, with respect to the Program, prepare and transmit to the Director of NIH a plan to initiate, expand, intensify and coordinate activities of the Institute respecting disorders of hearing (including tinnitus) and other communication processes, including diseases affecting hearing, balance, voice, speech, language, taste, and smell. The plan shall include such comments and recommendations as the Director of the Institute determines appropriate. The Director of the Institute shall periodically review and revise the plan and shall transmit any revisions of the plan to the Director of NIH.

"(b) Activities under the Program shall include—

"(1) investigation into the etiology, pathology, detection, treatment, and prevention of all forms of disorders of hearing and other communication processes, primarily through the support of basic research in such areas as anatomy, audiology, biochemistry, bioengineering, epidemiology, genetics, immunology, microbiology, molecular biology, the neurosciences, otolaryngology, psychology, pharmacology, physiology, speech and language pathology, and any other scientific disciplines that can contribute important knowledge to the understanding and elimination of disorders of hearing and other communication processes;

"(2) research into the evaluation of techniques (including surgical, medical, and behavioral approaches) and devices (including hearing aids, implanted auditory and nonauditory prosthetic devices and other communication aids) used in diagnosis, treatment, rehabilitation, and prevention of disorders of hearing and other communication processes;

102 STAT. 3050

Research and development.

"(3) research into prevention, and early detection and diagnosis, of hearing loss and speech and language disturbances (including stuttering) and research into preventing the effects of such disorders on learning and learning disabilities with extension of programs for appropriate referral and rehabilitation;

"(4) research into the detection, treatment, and prevention of disorders of hearing and other communication processes in the growing elderly population with extension of rehabilitative programs to ensure continued effective communication skills in such population;

"(5) research to expand knowledge of the effects of environmental agents that influence hearing or other communication processes; and

"(6) developing and facilitating intramural programs on clinical and fundamental aspects of disorders of hearing and all other communication processes.

"DATA SYSTEM AND INFORMATION CLEARINGHOUSE

"SEC. 464B. (a) The Director of the Institute shall establish a National Deafness and Other Communication Disorders Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with disorders of hearing or other communication processes, including where possible, data involving general populations for the purpose of identifying individuals at risk of developing such disorders. 42 USC 285m-2.

"(b) The Director of the Institute shall establish a National Deafness and Other Communication Disorders Information Clearinghouse to facilitate and enhance, through the effective dissemination of information, knowledge and understanding of disorders of hearing and other communication processes by health professionals, patients, industry, and the public.

"MULTIPURPOSE DEAFNESS AND OTHER COMMUNICATION DISORDERS CENTER

"SEC. 464C. (a) The Director of the Institute shall, after consultation with the advisory council for the Institute, provide for the development, modernization, and operation (including care required for research) of new and existing centers for studies of disorders of hearing and other communication processes. For purposes of this section, the term 'modernization' means the alteration, remodeling, improvement, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers described in the preceding sentence. 42 USC 285m-3.

"(b) Each center assisted under this section shall—

"(1) use the facilities of a single institution or a consortium of cooperating institutions; and

"(2) meet such qualifications as may be prescribed by the Secretary.

"(c) Each center assisted under this section shall, at least, conduct—

"(1) basic and clinical research into the cause, diagnosis, early detection, prevention, control and treatment of disorders of hearing and other communication processes and complications resulting from such disorders, including research into rehabili- 102 STAT. 3051
tative aids, implantable biomaterials, auditory speech processors, speech production devices, and other otolaryngologic procedures;

"(2) training programs for physicians, scientists, and other health and allied health professionals; Health care professionals. Education.

"(3) information and continuing education programs for physicians and other health and allied health professionals who will provide care for patients with disorders of hearing or other communication processes; and

"(4) programs for the dissemination to the general public of information—

"(A) on the importance of early detection of disorders of hearing and other communication processes, of seeking prompt treatment, rehabilitation, and of following an appropriate regimen; and

"(B) on the importance of avoiding exposure to noise and other environmental toxic agents that may affect disorders of hearing or other communication processes.

"(d) A center may use funds provided under subsection (a) to provide stipends for health professionals enrolled in training programs described in subsection (c)(2).

"(e) Each center assisted under this section may conduct programs—

"(1) to establish the effectiveness of new and improved methods of detection, referral, and diagnosis of individuals at risk of

developing disorders of hearing or other communication processes; and

"(2) to disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping.

Aged persons. Children and youth.

"(f) The Director of the Institute shall, to the extent practicable, provide for an equitable geographical distribution of centers assisted under this section. The Director shall give appropriate consideration to the need for centers especially suited to meeting the needs of the elderly, and of children (particularly with respect to their education and training), affected by disorders of hearing or other communication processes.

"(g) Support of a center under this section may be for a period not to exceed seven years. Such period may be extended by the Director of the Institute for one or more additional periods of not more than five years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director, with the advice of the Institute's advisory council, if such group has recommended to the Director that such period should be extended.".

Subtitle B—Biotechnology Information

SEC. 105. ESTABLISHMENT OF NATIONAL CENTER FOR BIOTECHNOLOGY INFORMATION.

Part D of title IV (42 U.S.C. 286 et seq.) is amended by adding at the end the following new subpart:

102 STAT. 3052

"Subpart 3—National Center for Biotechnology Information

"PURPOSE, ESTABLISHMENT, FUNCTIONS, AND FUNDING OF THE NATIONAL CENTER FOR BIOTECHNOLOGY INFORMATION

Research and development. 42 USC 286c.

"SEC. 478. (a) In order to focus and expand the collection, storage, retrieval, and dissemination of the results of biotechnology research by information systems, and to support and enhance the development of new information technologies to aid in the understanding of the molecular processes that control health and disease, there is established the National Center for Biotechnology Information (hereinafter in this section referred to as the 'Center') in the National Library of Medicine.

"(b) The Secretary, through the Center and subject to section 465(d), shall—

"(1) design, develop, implement, and manage automated systems for the collection, storage, retrieval, analysis, and dissemination of knowledge concerning human molecular biology, biochemistry, and genetics;

"(2) perform research into advanced methods of computer-based information processing capable of representing and analyzing the vast number of biologically important molecules and compounds;

"(3) enable persons engaged in biotechnology research and medical care to use systems developed under paragraph (1) and methods described in paragraph (2); and

"(4) coordinate, as much as is practicable, efforts to gather biotechnology information on an international basis.

Appropriation authorization.

"(c) For the purpose of performing the duties specified in subsection (b), there are authorized to be appropriated $8,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990. Funds appropriated under this subsection shall remain available until expended.".

Subtitle C—National Institutes of Health

SEC. 111. APPOINTMENT AND AUTHORITY OF THE DIRECTOR.

Section 402(b)(6) (42 U.S.C. 282(b)(6)) is amended by inserting "and scientific program advisory committees" after "scientific peer review groups".

SEC. 112. REPORT OF DIRECTOR OF NIH.

Section 403 (42 U.S.C. 283) is amended—

(1) in paragraph (3), by striking out "and";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3), the following new paragraph:

"(4) a description of the health related behavioral research that has been supported by the National Institutes of Health in the preceding 2-year period, and a description of any plans for future activity in such area; and".

Subtitle D—General Provisions Respecting National Research Institutes

SEC. 116. APPOINTMENT AND AUTHORITY OF THE DIRECTORS.

Section 405 (42 U.S.C. 284) is amended—

(1) in subsection (b), in the matter preceding subparagraph (A) of paragraph (1), by striking "the human diseases" and inserting "human diseases"; and

(2) in subsection (c)—

(A) by amending paragraph (3) to read as follows:

"(3) may, in consultation with the advisory council for the Institute and the approval of the Director of NIH, establish technical and scientific peer review groups in addition to those established under section 402(b)(6); and";

(B) by striking "and" at the end of paragraph (2); and

(C) by adding at the end the following new paragraph:

"(4) may publish, or arrange for the publication of, information with respect to the purpose of the Institute without regard to section 501 of title 44, United States Code.".

SEC. 117. ADVISORY COUNCILS.

(a) VOTING STATUS.—Section 406(b)(1) (42 U.S.C. 284a(b)(1)) is amended by adding at the end the following: "The ex officio members shall be nonvoting members.".

(b) APPOINTMENT OF MEMBERS.—Section 406(b)(3)(A) (42 U.S.C. 284a(b)(3)(A)) is amended by inserting after "(including" the following: "not less than two individuals who are leaders in the fields of".

(c) TERMINATION OF MEMBERSHIPS.—Section 406(h)(2)(A)(v) (42 U.S.C. 284a(h)(2)(A)(v)) is amended—

(1) by inserting "shall be nonvoting members and" after "the Board"; and

(2) by striking out "and the Assistant Secretary of Defense for Health Affairs" and inserting in lieu thereof "the Assistant Secretary of Defense for Health Affairs, and the Director of the Office of Energy Research of the Department of Energy".

SEC. 118. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 408(a) (42 U.S.C. 284c(a)) are amended to read as follows:

"(1)(A) For the National Cancer Institute (other than its programs under section 412), there are authorized to be appropriated $1,500,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990.

"(B) For the programs under section 412, there are authorized to be appropriated $100,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990.

"(E) to the extent practicable, in disseminating the results of such cancer research and treatment, utilize information systems available to the public."; and 102 STAT. 3055

(2) in subsection (b)—

(A) in paragraph (5), by striking "with the approval of" and inserting "after consultation with"; and

(B)(i) by adding "and" at the end of paragraph (8); and

(ii) by striking paragraph (9) and redesignating paragraph (10) as paragraph (9).

SEC. 123. NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS.

Section 414(a)(1) (42 U.S.C. 285a-3(a)(1)) is amended by inserting "control," after "prevention,".

Subtitle F—National Heart, Lung, and Blood Institute

SEC. 126. INFORMATION AND EDUCATION.

The second sentence of section 420 (42 U.S.C. 285b-2) is amended to read as follows: "In carrying out this section, the Director of the Institute shall place special emphasis upon the utilization of collaborative efforts with both the public and private sectors to—

"(1) increase the awareness and knowledge of health care professionals and the public regarding the prevention of heart and blood vessel, lung, and blood diseases and the utilization of blood resources; and

"(2) develop and disseminate to health professionals, patients and patient families, and the public information designed to encourage adults and children to adopt healthful practices concerning the prevention of such diseases.". Health care professionals.

SEC. 127. RESOURCES PROGRAM.

Section 421 (42 U.S.C. 285b-3) is amended—

(1) in subsection (a)(1)(D), by inserting "and rehabilitation from" after "treatment of"; and

(2) in subsection (b), by striking out ", after approval of" in paragraph (1) and inserting "after consultation with";

SEC. 128. NATIONAL RESEARCH AND DEMONSTRATION CENTERS.

Section 422(a)(1) (42 U.S.C. 285b-4(a)(1)) is amended—

(1) in subparagraph (A), by inserting "and rehabilitation" after "treatment"; and

(2) in subparagraph (B), by inserting "and rehabilitation" after "treatment".

SEC. 129. INTERAGENCY TECHNICAL COMMITTEE.

Subpart 2 of part C of title IV (42 U.S.C. 285b et seq.) is amended by striking section 423 and redesignating section 424 as section 423. 42 USC 288b-5, 285b-6. 102 STAT. 3056

Subtitle G—National Institute of Diabetes and Digestive and Kidney Diseases

SEC. 131. ADVISORY BOARDS.

Section 430 (42 U.S.C. 285c-4) is amended by striking subsection (k) and redesignating subsection (l) as subsection (k).

Subtitle H—National Institute of Arthritis and Musculoskeletal and Skin Diseases

SEC. 136. NATIONAL ARTHRITIS AND MUSCULOSKELETAL DISEASES PROGRAMS.

Section 436 (42 U.S.C. 285d-1) is amended—

(1) in the section heading, by inserting "AND SKIN" after "MUSCULOSKELETAL";

(2) in the first sentence of subsection (a), by inserting "and skin" after "musculoskeletal" each place it appears;

(3) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting "and skin" after "musculoskeletal" each place it appears;

(B) in paragraph (1), by inserting "and skin" after "musculoskeletal" each place it appears; and

(C) in paragraph (2), by inserting "and skin" after "musculoskeletal"; and

(4) in subsection (c), by inserting "and skin" after "musculoskeletal".

SEC. 137. MULTIPURPOSE DISEASE CENTERS.

Section 441(b)(2)(A) (42 U.S.C. 285d-6(b)(2)(A)) is amended by inserting "and rehabilitation from" after "treatment of".

Subtitle I—National Institute on Aging

SEC. 141. CENTERS OF GERIATRIC RESEARCH AND TRAINING.

Subpart 5 of part C of title IV (42 U.S.C. 285e et seq.) is amended by adding at the end the following new section:

"CENTERS OF GERIATRIC RESEARCH AND TRAINING

Contracts.
Grants.
42 USC 285e-3.

"SEC. 445A. (a) The Director of the Institute shall enter into cooperative agreements with, and make grants to, public and private nonprofit entities for the development or expansion of centers of excellence in geriatric research and training of researchers.

"(b) Each center developed or expanded under this section shall—

"(1) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Director; and

"(2) conduct—

"(A) research into the aging processes and into the diagnosis and treatment of diseases, disorders, and complications related to aging; and

102 STAT. 3057

"(B) programs to develop individuals capable of conducting research concerning aging and concerning such diseases, disorders, and complications.

"(c) In making cooperative agreements and grants under this section for the development or expansion of centers, the Director of the Institute shall ensure that, to the extent practicable, any such centers are distributed equitably among the principal geographic regions of the United States.".

SEC. 142. TRANSFER OF CERTAIN PROVISIONS WITH RESPECT TO ALZHEIMER'S DISEASE AND RELATED DEMENTIAS.

(a) IN GENERAL.—Sections 931, 941, 942, 951, and 952 of the Alzheimer's Disease and Related Dementias Services Research Act of 1986 (42 U.S.C. 11201 et seq.) are—

42 USC 11231, 11241, 11242, 11281, 11282. 42 USC 285e-4—285e-8.

(1) transferred to subpart 5 of part C of title IV (42 U.S.C. 285e et seq.);

(2) redesignated as sections 445B through 445F, respectively; and

"(2)(A) For the National Heart, Lung, and Blood Institute (other than its program under section 419), there are authorized to be appropriated $1,100,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990. Of the amounts appropriated for the National Heart, Lung, and Blood Institute (other than its program under section 419) for a fiscal year, the Secretary shall make available not less than 15 percent for programs respecting diseases of the lung and not less than 15 percent for programs respecting blood diseases and blood resources.

102 STAT. 3054

"(B) For the program of the National Heart, Lung, and Blood Institute under section 419 there is authorized to be appropriated $101,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990.".

(b) APPLICABILITY OF CERTAIN PROVISIONS TO NURSES AND ALLIED HEALTH PROFESSIONALS.—Section 408(b) (42 U.S.C. 284c(b)) is amended by adding at the end the following new paragraph:

"(5) For fiscal year 1989 and subsequent fiscal years, amounts made available to the National Institutes of Health shall be available for payment of nurses and allied health professionals in accordance with payment authorities, scheduling options, benefits, and other authorities provided under chapter 73 of title 38, United States Code, for nurses of the Veterans' Administration.".

Subtitle E—National Cancer Institute

SEC. 121. PURPOSE.

Section 410 (42 U.S.C. 285) is amended by inserting ", rehabilitation from cancer," after "treatment of cancer".

SEC. 122. SPECIAL AUTHORITIES OF THE DIRECTOR.

Section 413 (42 U.S.C. 285a-2(b)) is amended—

(1) in subsection (a)—

(A)(i) in the first sentence, by striking "information and education center" and inserting "information and education program"; and

(ii) in the second sentence, by inserting after "between the Institute" the following: "and the public and between the Institute and"; and

(B) by inserting "(1)" after the subsection designation and adding at the end the following new paragraph:

"(2) In carrying out paragraph (1), the Director of the Institute shall—

Public information.

"(A) provide public and patient information and education programs, providing information that will help individuals take personal steps to reduce their risk of cancer, to make them aware of early detection techniques and to motivate appropriate utilization of those techniques, to help individuals deal with cancer if it strikes, and to provide information to improve long-term survival;

"(B) continue and expand programs to provide physicians and the public with state-of-the-art information on the treatment of particular forms of cancers, and to identify those clinical trials that might benefit patients while advancing knowledge of cancer treatment;

"(C) assess the incorporation of state-of-the-art cancer treatments into clinical practice and the extent to which cancer patients receive such treatments and include the results of such assessments in the biennial reports required under section 407;

"(D) maintain and operate the International Cancer Research Data Bank, which shall collect, catalog, store, and disseminate insofar as feasible the results of cancer research and treatment undertaken in any country for the use of any person involved in cancer research and treatment in any country; and

(3) in the appropriate sequence, inserted after section 445A (42 U.S.C. 285e–2).

(b) AVAILABILITY OF APPROPRIATIONS.—With respect to amounts made available in appropriation Acts for the purpose of carrying out the programs transferred by subsection (a) to the Public Health Service Act, such subsection may not be construed to affect the availability of such funds for such purpose. 42 USC 285e–4 note.

(c) TECHNICAL AND CONFORMING AMENDMENTS TO ALZHEIMER'S DISEASE AND RELATED DEMENTIAS SERVICES RESEARCH ACT OF 1986.—

(1) The Alzheimer's Disease and Related Dementias Services Research Act of 1986 (42 U.S.C. 11201 et seq.) is amended—

(A) by striking sections 932 and 953; 42 USC 11232, 11283.

(B) by striking the part designation and the heading for part D;

(C) by striking the part designation and the heading for part F;

(D) by redesignating parts E and G as parts D and E, respectively; and

(E) in section 912(b)(1), in the first sentence, by striking "part E" and inserting "part D". 42 USC 11212.

(2) Part D of of the Alzheimer's Disease and Related Dementias Services Research Act of 1986 (as redesignated by paragraph (1)(D) of this subsection) is amended—

(A) by striking section 943; 42 USC 11243.

(B) by redesignating sections 944 through 949C as sections 931 through 939, respectively; 42 USC 11251 *et seq.*, 11261 *et seq.*, 11271 *et seq.*

(C) by striking the subpart designation and the heading for subpart 1; and

(D) by redesignating subparts 2 through 4 as subparts 1 through 3, respectively.

(d) TECHNICAL AND CONFORMING AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.—Subpart 5 of part C of title IV (42 U.S.C. 285e et seq.), as amended by subsection (a), is further amended—

(1) in section 445B— 42 USC 285e–4.

(A) in subsection (a), in the first sentence, by striking "the National Institute on Aging" and inserting "the Institute";

(B) in subsection (b)—

(i) by striking "the National Institute on Aging" and inserting "the Institute"; and

(ii) by striking "of the Public Health Service Act";

(C) in subsection (c), by striking "the National Institute on Aging" and inserting "the Institute"; and

(D) in subsection (d), by striking "the National Institute on Aging" and inserting "the Institute";

(2) in section 445C— 42 USC 285e–5.

(A) in subsection (a), by striking "the National Institute on Aging" and inserting "the Institute";

(B) in subsection (b)—

(i) in paragraph (1), in the first sentence—

(I) by striking "this Act" and inserting "the Alzheimer's Disease and Related Dementias Services Research Act of 1986"; and

(II) by striking "the National Institute on Aging" and inserting "the Institute";

(ii) in paragraph (1), in subparagraph (B), by striking "of the Public Health Service Act"; and

(iii) in paragraph (2), by striking "the National Institute on Aging" and inserting "the Institute"; and

(C) in subsection (c), by striking "the National Institute on Aging" and inserting "the Institute";

(3) in section 445D— 42 USC 285e–6.

(A) by striking "the National Institute on Aging" and inserting "the Institute"; and

(B) by striking "this subpart" and inserting "section 445C and this section";

(4) in section 445E— 42 USC 285e–7.

(A) in subsection (a), by striking "the National Institute on Aging" and inserting "the Institute"; and

(B) in subsection (c)—

(i) by striking "the National Institute on Aging" and inserting "the Institute"; and

(ii) by striking "part E" and inserting "part D"; and

42 USC 285e-8.

(5) in section 445F—

(A) in subsection (a), by striking "the National Institute on Aging" and inserting "the Institute"; and

(B) in subsection (d), in the first sentence, by striking "the National Institute on Aging" and inserting "the Institute".

Subtitle J—National Library of Medicine

SEC. 146. AUTHORIZATION OF APPROPRIATIONS.

Grants. Contracts.

(a) IN GENERAL.—The first sentence of section 469 (42 U.S.C. 286b) is amended to read as follows: "For the purpose of grants and contracts under sections 472 through 476, there are authorized to be appropriated $14,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990.".

(b) GRANT AMOUNT.—Section 474(b)(2) (42 U.S.C. 286b-5(b)(2)) is amended by striking out "$500,000" and inserting in lieu thereof "$750,000".

Subtitle K—Awards and Training

SEC. 151. NATIONAL RESEARCH SERVICE AWARDS.

102 STAT. 3059

Grants. Appropriation authorization.

Section 487(d) (42 U.S.C. 288(d)) is amended—

(1) in the matter preceding paragraph (1), by amending the first sentence to read as follows: "For the purpose of making payments under National Research Service Awards and under grants for such Awards, there are authorized to be appropriated $300,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990."; and

(2) in paragraph (3), by inserting after "made available" the first place it appears the following: "to the Secretary, acting through the Administrator of the Health Resources and Services Administration,".

Subtitle L—Fetal Research Moratorium

SEC. 156. EXTENSION OF MORATORIUM.

Section 498(c) (42 U.S.C. 289g(c)) is amended—

(1) in paragraph (2), by striking "thirty-six month period beginning on the date of enactment of this section" and inserting "24-month period beginning on the date of the enactment of the National Institute on Deafness and Other Communication Disorders and Health Research Extension Act of 1988"; and

(2) in paragraph (3), by striking "1988" and inserting "1990".

SEC. 157. BOARD AND STUDY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 381(e) (42 U.S.C. 275(e)) is amended by striking "and" after "1987," and inserting before the period the following: ", $2,000,000 for fiscal year 1989, and $2,500,000 for fiscal year 1990".

(b) STUDY.—Section 498(c)(1) (42 U.S.C. 289g(c)(1)) is amended by striking "thirty months after the date of enactment of this section" and inserting "24 months after the date of the enactment of the National Institute on Deafness and Other Communication Disorders and Health Research Extension Act of 1988".

Subtitle M—Miscellaneous

SEC. 161. STUDY OF THYROID MORBIDITY FOR HANFORD, WASHINGTON. 42 USC 241 note.

(a) IN GENERAL.—In carrying out the purposes of section 301 of the Public Health Service Act (42 U.S.C. 241), the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control (hereafter referred to in this section as the "Director"), shall conduct a study of thyroid morbidity of the population (including Indian tribes and tribal organizations) in the vicinity of Hanford, in the State of Washington, during the years 1944 through 1957.

(b) PEER REVIEW.—As soon as is practicable after the date of the enactment of this Act, the Director shall establish a peer review committee that shall, along with the Centers for Disease Control, make any determinations as to the conduct of the study required under this section.

(c) CONTRACTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Director may contract out any portion of the study required under this section if the Director considers such appropriate, except that such contractor shall not have any direct or indirect interest in the outcome of such study including, contracts with the Department of Energy. 102 STAT. 3060

(2) RELATIONSHIPS.—Contractors that currently are parties to contracts with the Department of Energy (or who have previously been parties to such) shall be given consideration pursuant to paragraph (1), except that the Director shall make a determination in each such circumstance that the relationship of the contractor with the Department of Energy does not represent a conflict of interest or the appearance of such a conflict regarding the conduct of the study required under this section. Contracts.

(d) REPORT.—Not later than 42 months after the date of enactment of this section, the Director shall transmit a report including such study to the Congress, the chief executive officers of the States of Oregon and Washington, and the governing officials of the Indian tribes in the vicinity of Hanford, Washington. Oregon. Washington.

SEC. 162. NATIONAL COMMISSION ON SLEEP DISORDERS RESEARCH. 42 USC 241 note.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary"), after consultation with the Director of the National Institutes of Health, shall establish a National Commission on Sleep Disorders Research (hereafter in this section referred to as the "Commission").

(b) COMPOSITION.—

(1) APPOINTED MEMBERS.—The Commission shall be composed of 10 members to be appointed as follows:

(A) Six members shall be appointed by the Secretary from among scientists, physicians, and other health professionals who are not in the employment of the Federal Government, and who have primary expertise in sleep disorders research or medicine.

(B) Two members shall be appointed by the Secretary from the general public, of whom one of which shall have personal or close family experience with sleep disorders.

(C) Two members shall be appointed by the Secretary from among the personnel of the National Institutes of Health, and such members interest shall be in the field of sleep disorders research.

(2) EX OFFICIO MEMBERS.—The Director of the National Institutes of Health, the Director of the National Institute of Neurological and Communicative Disorders and Stroke, the Directors of the National Heart, Lung and Blood Institute, the National Institute on Mental Health, the National Institute on

Aging, the National Institute on Child Health and Human Development, the Director of the Center for Disease Control, the Chief Medical Director of the Veterans' Administration, and the Secretary of Defense shall be ex officio members of the Commission, or their designees.

(c) CHAIRPERSON.—The members of the Commission shall select a Chairperson from among the appointed members of the Commission.

(d) MEETINGS.—Not later than 60 days after the establishment of the Commission, the Commission shall meet as directed by the Secretary, and thereafter shall meet at the call of the Chairperson of the Commission, but in no event shall the Commission meet less often than three times during the life of the Commission. The Commission may hold such hearings, take such testimony, and sit and act at such time and places as the Commission considers appropriate.

102 STAT. 3061

(e) PERSONNEL.—

(1) EXECUTIVE SECRETARY.—

(A) APPOINTMENT.—The Commission may appoint and fix the compensation of an executive secretary to effectively carry out the functions of the Commission.

(B) COMPENSATION.—The executive secretary shall be appointed subject to title 5, United States Code, governing appointments in the competitive service, and shall receive compensation in accordance with chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) ADDITIONAL PERSONNEL.—The Secretary shall, to the extent practicable, provide the Commission with such additional professional and clerical staff, such information, and the services of such consultants as the Commission determines to be necessary to carry out its functions effectively.

(f) COMPENSATION.—

(1) OFFICERS OR EMPLOYEES OF THE FEDERAL GOVERNMENT.—Members of the Commission who are officers or employees of the Federal Government shall serve as members of the Commission without compensation in addition to that received in their regular public employment.

(2) NON-FEDERAL GOVERNMENT MEMBERS.—Members of the Commission who are not officers or employees of the Federal Government shall receive compensation at a rate not to exceed the daily equivalent of the annual rate in effect for Grade GS–18 of the General Schedule for each day (including traveltime) that such members are engaged in the performance of their duties as members of the Commission.

(3) EXPENSES.—All members of the Commission, while serving away from their homes or regular places of business in the performance of services for the Commission, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in Government Service employed intermittently.

(g) DUTIES.—

(1) STUDY.—The Commission shall—

(A) conduct a comprehensive study of the present state of knowledge of the incidence, prevalence, morbidity, and mortality resulting from sleep disorders, and of the social and economic impact of such disorders;

(B) evaluate the public and private facilities and resources (including trained personnel and research activities) available for the diagnosis, prevention, and treatment of, and research into, such disorders; and

(C) identify programs (including biological, physiological, behavioral, environmental, and social programs) by which improvement in the management and research into sleep disorders can be accomplished.

(2) DEVELOPMENT OF PLAN.—Based on the study conducted under paragraph (1), the Commission shall develop a long-range plan for the use and organization of national resources to effectively deal with sleep disorders research and medicine. 102 STAT. 3062

(3) COOPERATION.—Each Federal entity administering programs and activities related to sleep disorders shall, on request, assist the Commission in carrying out its duties under this subsection.

(h) DEVELOPMENT OF ESTIMATES.—The Commission shall recommend, for each of the Institutes of the National Institutes of Health whose activities are to be affected by the long-range plan, estimates of the expenditures needed to carry out each Institute's part of the overall program. Such estimates shall be prepared for the fiscal year beginning immediately after completion of the plan under subsection (g)(2) and for each of the next 2 fiscal years.

(i) REPORT.—Not later than 18 months after the initial meeting of the Commission (as prescribed by subsection (d)), the Commission shall prepare and submit to the appropriate Committees of Congress, a final report describing—

(1) the long-range plan developed under subsection (g);

(2) the expenditure estimates required under subsection (h); and

(3) any recommendations of the Commission for legislation.

(j) TERMINATION.—The Commission shall cease to exist on the 30th day following the date of the submission of the final report under subsection (i).

SEC. 163. MISCELLANEOUS AMENDMENTS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1)(A) with respect to section 303(a), by transferring the matter after and below paragraph (2) of such section to section 301; 42 USC 242a, 241

(B) by designating such matter as subsection (d); and

(C) by adding subsection (d) (as so designated) at the end of section 301;

(2) in section 301(d) (as so designated)—

(A) in the first sentence, by striking "research on mental health, including" and inserting the following: "biomedical, behavioral, clinical, or other research (including research on mental health, including"; and

(B) by striking "drugs," and inserting "drugs)"; and

(3) in section 330, by redesignating the second subsection (j) (as added by section 4 of Public Law 100-386) as subsection (k). 42 USC 254c.

TITLE II—PROGRAMS WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

AIDS Amendments of 1988

SEC. 200. SHORT TITLE. 42 USC 201 note.

This title may be cited as the "AIDS Amendments of 1988".

Subtitle A—Research Programs

SEC. 201. ESTABLISHMENT OF CERTAIN PROGRAMS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) by redesignating title XXIII as title XXV;

(2) by redesignating sections 2301 through 2303 as sections 2501 through 2503, respectively;

(3) by redesignating sections 2306 through 2316 as sections 2504 through 2514, respectively; and

(4) by inserting after title XXII the following new title: 42 USC 300cc—300cc-2, 300aaa—300aaa-2. 42 USC 300cc-15, 300aaa-3—300aaa-13.

102 STAT. 3063

"TITLE XXIII—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

42 USC 300cc.

"PART A—ADMINISTRATION OF RESEARCH PROGRAMS

"SEC. 2301. REQUIREMENT OF ANNUAL COMPREHENSIVE REPORT ON ALL EXPENDITURES BY SECRETARY WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) IN GENERAL.—Not later than December 1 of each fiscal year, the Secretary shall prepare and submit to the Congress a report on the expenditures by the Secretary of amounts appropriated for the preceding fiscal year with respect to acquired immune deficiency syndrome.

"(b) INCLUSION OF CERTAIN INFORMATION.—The report required in subsection (a) shall, with respect to acquired immune deficiency syndrome, include—

"(1) for each program, project, or activity with respect to such syndrome, a specification of the amount obligated by each office and agency of the Department of Health and Human Services;

Minorities.

"(2) a summary description of each such program, project, or activity;

"(3) a list of such programs, projects, or activities that are directed towards members of minority groups;

"(4) a description of the extent to which programs, projects, and activities described in paragraph (3) have been coordinated between the Director of the Office of Minority Health and the Director of the Centers for Disease Control;

"(5) a summary of the progress made by each such program, project, or activity with respect to the prevention and control of acquired immune deficiency syndrome;

"(6) a summary of the evaluations conducted under this title; and

42 USC 300cc-1.

"(7) any report required in this Act to be submitted to the Secretary for inclusion in the report required in subsection (a).

"SEC. 2302. REQUIREMENT OF EXPEDITING AWARDS OF GRANTS AND CONTRACTS FOR RESEARCH.

"(a) IN GENERAL.—The Secretary shall expedite the award of grants, contracts, and cooperative agreements for research projects relating to acquired immune deficiency syndrome (including such research projects initiated independently of any solicitation by the Secretary for proposals for such research projects).

"(b) TIME LIMITATIONS WITH RESPECT TO CERTAIN APPLICATIONS.—

"(1) With respect to programs of grants, contracts, and cooperative agreements described in subsection (a), any application submitted in response to a solicitation by the Secretary for proposals pursuant to such a program—

"(A) may not be approved if the application is submitted after the expiration of the 3-month period beginning on the date on which the solicitation is issued; and

"(B) shall be awarded, or otherwise finally acted upon, not later than the expiration of the 6-month period beginning on the expiration of the period described in subparagraph (A).

102 STAT. 3064

"(2) If the Secretary makes a determination that it is not practicable to administer a program referred to in paragraph (1) in accordance with the time limitations described in such paragraph, the Secretary may adjust the time limitations accordingly.

"(c) REQUIREMENTS WITH RESPECT TO ADJUSTMENTS IN TIME LIMITATIONS.—With respect to any program for which a determination described in subsection (b)(2) is made, the Secretary shall—

"(1) if the determination is made before the Secretary issues a solicitation for proposals pursuant to the program, ensure that the solicitation describes the time limitations as adjusted by the determination; and

"(2) if the determination is made after the Secretary issues such a solicitation for proposals, issue a statement describing the time limitations as adjusted by the determination and individually notify, with respect to the determination, each applicant whose application is submitted before the expiration of the 3-month period beginning on the date on which the solicitation was issued.

"(d) ANNUAL REPORTS TO CONGRESS.—Except as provided in subsection (e), the Secretary shall annually prepare, for inclusion in the comprehensive report required in section 2301, a report—

"(A) summarizing programs for which the Secretary has made a determination described in subsection (b)(2), including a description of the time limitations as adjusted by the determination and including a summary of the solicitation issued by the Secretary for proposals pursuant to the program; and

"(B) summarizing applications that—

"(i) were submitted pursuant to a program of grants, contracts, or cooperative agreements referred to in paragraph (1) of subsection (b) for which a determination described in paragraph (2) of such subsection has not been made; and

"(ii) were not processed in accordance with the time limitations described in such paragraph (1).

"(e) QUARTERLY REPORTS FOR FISCAL YEAR 1989.—For fiscal year 1989, the report required in subsection (d) shall, not less than quarterly, be prepared and submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

"SEC. 2303. REQUIREMENTS WITH RESPECT TO PROCESSING OF REQUESTS FOR PERSONNEL AND ADMINISTRATIVE SUPPORT. 42 USC 300cc-2.

"(a) IN GENERAL.—The Director of the Office of Personnel Management or the Administrator of General Services, as the case may be, shall respond to any priority request made by the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the Centers for Disease Control, the Commissioner of Food and Drugs, or the Director of the National Institutes of Health, not later than 21 days after the date on which such request is made. If the Director of the Office of Personnel Management or the Administrator of General Services, as the case may be, does not disapprove a priority request during the 21-day period, the request shall be deemed to be approved.

102 STAT. 3065

"(b) NOTICE TO SECRETARY AND TO ASSISTANT SECRETARY FOR HEALTH.—The Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the Centers for Disease Control, the Commissioner of Food and Drugs, and the Director of the National Institutes of Health, shall, respectively, transmit to the Secretary and the Assistant Secretary for Health a copy of each priority request made under this section by the agency head involved. The copy shall be transmitted on the date on which the priority request involved is made.

"(c) DEFINITION OF PRIORITY REQUEST.—For purposes of this section, the term 'priority request' means any request that—

"(1) is designated as a priority request by the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the Centers for Disease Control, the Commissioner of Food and Drugs, or the Director of the National Institutes of Health; and

"(2)(A) is made to the Director of the Office of Personnel Management for the allocation of personnel to carry out activities with respect to acquired immune deficiency syndrome; or

"(B) is made to the Administrator of General Services for administrative support or space in carrying out such activities.

"(ii) with an outpatient clinical capacity equal to not less than twice the outpatient clinical capacity, with respect to acquired immune deficiency syndrome, possessed by the Clinical Center of the National Institutes of Health on June 1, 1988; and

"(B) with such personnel, such administrative support, and such other support services as may be necessary.

"(2) Facilities, personnel, administrative support, and other support services provided pursuant to paragraph (1) shall be in addition to the number or level of facilities, personnel, administrative support, and other support services that otherwise would be available at the Clinical Center at the National Institutes of Health for the provision of clinical care for individuals with diseases or disorders.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

"SEC. 2312. USE OF INVESTIGATIONAL NEW DRUGS WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME. 42 USC 300cc-12.

"(a) ENCOURAGEMENT OF APPLICATIONS WITH RESPECT TO CLINICAL TRIALS.—

"(1) If, in the determination of the Secretary, there is preliminary evidence that a new drug has effectiveness in humans with respect to the prevention or treatment of acquired immune deficiency syndrome, the Secretary shall, through statements published in the Federal Register— Federal Register, publication. 102 STAT. 3067

"(A) announce the fact of such determination; and

"(B) with respect to the new drug involved, encourage an application for an exemption for investigational use of the new drug under regulations issued under section 505(i) of the Federal Food, Drug, and Cosmetic Act.

"(2)(A) The AIDS Clinical Research Review Committee established pursuant to section 2304 shall make recommendations to the Secretary with respect to new drugs appropriate for determinations described in paragraph (1).

"(B) The Secretary shall, as soon as is practicable, determine the merits of recommendations received by the Secretary pursuant to subparagraph (A).

"(b) ENCOURAGEMENT OF APPLICATIONS WITH RESPECT TO TREATMENT USE IN CIRCUMSTANCES OTHER THAN CLINICAL TRIALS.—

"(1) In the case of a new drug with respect to which the Secretary has made a determination described in subsection (a) and with respect to which an exemption is in effect for purposes of section 505(i) of the Federal Food, Drug, and Cosmetic Act, the Secretary shall—

"(A) as appropriate, encourage the sponsor of the investigation of the new drug to submit to the Secretary, in accordance with regulations issued under such section, an application to use the drug in the treatment of individuals—

"(i) who are infected with the etiologic agent for acquired immune deficiency syndrome; and

"(ii) who are not participating in the clinical trials conducted pursuant to such exemption; and

"(B) if such an application is approved, encourage, as appropriate, licensed medical practitioners to obtain, in accordance with such regulations, the new drug from such sponsor for the purpose of treating such individuals.

"(2) If the sponsor of the investigation of a new drug described in paragraph (1) does not submit to the Secretary an application described in such paragraph (relating to treatment use), the Secretary shall, through statements published in the Federal Register, encourage, as appropriate, licensed medical practitioners to submit to the Secretary such applications in accordance with regulations described in such paragraph. Federal Register, publication.

Grants.
Contracts.

"(c) TECHNICAL ASSISTANCE WITH RESPECT TO TREATMENT USE.—In the case of a new drug with respect to which the Secretary has made a determination described in subsection (a), the Secretary may, directly or through grants or contracts, provide technical assistance with respect to the process of—

"(1) submitting to the Secretary applications for exemptions described in paragraph (1)(B) of such subsection;

"(2) submitting to the Secretary applications described in subsection (b); and

"(3) with respect to sponsors of investigations of new drugs, facilitating the transfer of new drugs from such sponsors to licensed medical practitioners.

"(d) DEFINITION.—For purposes of this section, the term "new drug" has the meaning given such term in section 201 of the Federal Food, Drug, and Cosmetic Act.

102 STAT. 3068

42 USC 300cc-13.

"SEC. 2313. COMMUNITY-BASED EVALUATIONS OF EXPERIMENTAL THERAPIES.

Grants.
Contracts.

"(a) IN GENERAL.—After consultation with the Commissioner of Food and Drugs, the Director of the National Institutes of Health, acting through the National Institute of Allergy and Infectious Diseases, may make grants to public entities and nonprofit private entities concerned with acquired immune deficiency syndrome, and may enter into contracts with public and private such entities, for the purpose of planning and conducting, in the community involved, clinical trials of experimental treatments for infection with the etiologic agent for such syndrome that are approved by the Commissioner of Food and Drugs for investigational use under regulations issued under section 505 of the Federal Food, Drug, and Cosmetic Act.

"(b) REQUIREMENT OF CERTAIN PROJECTS.—

"(1) Financial assistance under subsection (a) shall include such assistance to community-based organizations and community health centers for the purpose of—

"(A) retaining appropriate medical supervision;

"(B) assisting with administration, data collection and record management; and

Health care professionals.
Minorities.
Women.
Children and youth.

"(C) conducting training of community physicians, nurse practitioners, physicians' assistants and other health professionals for the purpose of conducting clinical trials.

"(2)(A) Financial assistance under subsection (a) shall include such assistance for demonstration projects designed to implement and conduct community-based clinical trials in order to provide access to the entire scope of communities affected by infections with the etiologic agent for acquired immune deficiency syndrome, including minorities, hemophiliacs and transfusion-exposed individuals, women, children, users of intravenous drugs, and individuals who are asymptomatic with respect to such infection.

"(B) The Director of the National Institutes of Health may not provide financial assistance under this paragraph unless the application for such assistance is approved—

"(i) by the Commissioner of Food and Drugs;

"(ii) by a duly constituted Institutional Review Board that meets the requirements of part 56 of title 21, Code of Federal Regulations; and

"(iii) by the Director of the National Institute of Allergy and Infectious Diseases.

"(c) PARTICIPATION OF PRIVATE INDUSTRY AND SCHOOLS OF MEDICINE.—Programs carried out with financial assistance provided under subsection (a) shall be designed to encourage private industry and schools of medicine to participate in, and to support, the clinical trials conducted pursuant to the programs.

"(d) REQUIREMENT OF APPLICATION.—The Secretary may not provide financial assistance under subsection (a) unless—

"(1) an application for the assistance is submitted to the Secretary;

42 USC 300cc-3.

"SEC. 2304. ESTABLISHMENT OF CLINICAL RESEARCH REVIEW COMMITTEE.

"(a) IN GENERAL.—After consultation with the Commissioner of Food and Drugs, the Secretary, acting through the Director of the National Institute of Allergy and Infectious Diseases, shall establish within such Institute an advisory committee to be known as the AIDS Clinical Research Review Committee (hereafter in this section referred to as the 'Committee').

"(b) COMPOSITION.—The Committee shall be composed of physicians whose clinical practice includes a significant number of patients with acquired immune deficiency syndrome.

"(c) DUTIES.—The Committee shall—

"(1) advise the Director of such Institute on appropriate research activities to be undertaken with respect to clinical treatment of such syndrome, including advice with respect to—

"(A) research on drugs for preventing or minimizing the development of symptoms or conditions arising from infection with the etiologic agent for such syndrome; and

"(B) research on the effectiveness of treating such symptoms or conditions with drugs that—

"(i) are not approved by the Commissioner of Food and Drugs for the purpose of treating such symptoms or conditions; and

"(ii) are being utilized for such purpose by individuals infected with such etiologic agent;

"(2)(A) review ongoing publicly and privately supported research on clinical treatment for acquired immune deficiency syndrome, including research on drugs described in paragraph (1); and

Reports.

"(B) periodically issue, and make available to health care professionals, reports describing and evaluating such research.

"(3) conduct studies and convene meetings for the purpose of determining the recommendations among physicians in clinical practice on clinical treatment of acquired immune deficiency syndrome, including treatment with the drugs described in paragraph (1); and

102 STAT. 3066

"(4) conduct a study for the purpose of developing, with respect to individuals infected with the etiologic agent for acquired immune deficiency syndrome, a consensus among health care professionals on clinical treatments for preventing or minimizing the development of symptoms or conditions arising from infection with such etiologic agent.

"PART B—RESEARCH AUTHORITY

42 USC 300cc-11.

"SEC. 2311. CLINICAL EVALUATION UNITS AT NATIONAL INSTITUTES OF HEALTH.

"(a) IN GENERAL.—The Secretary, acting through the Director of the National Cancer Institute and the Director of the National Institute of Allergy and Infectious Diseases, shall for each such Institute establish a clinical evaluation unit at the Clinical Center at the National Institutes of Health. Each of the clinical evaluation units—

"(1) shall conduct clinical evaluations of experimental treatments for acquired immune deficiency syndrome developed within the preclinical drug development program; and

"(2) may conduct clinical evaluations of experimental treatments for such syndrome that are developed by any other national research institute of the National Institutes of Health or by any other entity.

"(b) PERSONNEL AND ADMINISTRATIVE SUPPORT.—

"(1) For the purposes described in subsection (a), the Secretary, acting through the Director of the National Institutes of Health, shall provide each of the clinical evaluation units required in such subsection—

"(A)(i) with not less than 50 beds; or

"(2) with respect to carrying out the purpose for which the assistance is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

102 STAT. 3069

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) For the purpose of carrying out subsection (b)(1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"(2) For the purpose of carrying out subsection (b)(2), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"SEC. 2314. EVALUATION OF CERTAIN TREATMENTS.

42 USC 300cc-14.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) After consultation with the Clinical Research Review Committee established pursuant to section 2304, the Secretary shall establish a program for the evaluation of drugs that—

"(A) are not approved by the Commissioner of Food and Drugs for the purpose of treatments with respect to acquired immune deficiency syndrome; and

"(B) are being utilized for such purpose by individuals infected with the etiologic agent for such syndrome.

"(2) The program established under paragraph (1) shall include evaluations of the effectiveness and the risks of the treatment involved, including the risks of foregoing treatments with respect to acquired immune deficiency syndrome that are approved by the Commissioner of Food and Drugs.

"(b) AUTHORITY WITH RESPECT TO GRANTS AND CONTRACTS.—

"(1) For the purpose of conducting evaluations required in subsection (a), the Secretary may make grants to, and enter into cooperative agreements and contracts with, public and nonprofit private entities.

"(2) Nonprofit private entities under paragraph (1) may include nonprofit private organizations that—

"(A) are established for the purpose of evaluating treatments with respect to acquired immune deficiency syndrome; and

"(B) consist primarily of individuals infected with the etiologic agent for such syndrome.

"(c) SCIENTIFIC AND ETHICAL GUIDELINES.—

"(1) The Secretary shall establish appropriate scientific and ethical guidelines for the conduct of evaluations carried out pursuant to this section. The Secretary may not provide financial assistance under subsection (b)(1) unless the applicant for such assistance agrees to comply with such guidelines.

"(2) The Secretary may establish the guidelines described in paragraph (1) only after consulting with—

"(A) physicians whose clinical practice includes a significant number of individuals with acquired immune deficiency syndrome;

"(B) individuals who are infected with the etiologic agent for such syndrome; and

"(C) other individuals with appropriate expertise or experience.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

102 STAT. 3070

"SEC. 2315. SUPPORT OF INTERNATIONAL EFFORTS.

42 USC 300cc-15.

"(a) GRANTS AND CONTRACTS FOR RESEARCH.—

"(1) Under section 307, the Secretary, acting through the Director of the National Institutes of Health—

"(A) shall, for the purpose described in paragraph (2), make grants to, enter into cooperative agreements and contracts with, and provide technical assistance to, international organizations concerned with public health; and

"(B) may, for such purpose, provide technical assistance to foreign governments.

"(2) The purpose referred to in paragraph (1) is promoting and expediting international research concerning the development and evaluation of vaccines and treatments for acquired immune deficiency syndrome.

"(b) GRANTS AND CONTRACTS FOR ADDITIONAL PURPOSES.—After consultation with the Administrator of the Agency for International Development, the Secretary, acting through the Director of the Centers for Disease Control, shall under section 307 make grants to, enter into contracts with, and provide technical assistance to, international organizations concerned with public health and may provide technical assistance to foreign governments, in order to support—

"(1) projects for training individuals with respect to developing skills and technical expertise for use in the prevention, diagnosis, and treatment of acquired immune deficiency syndrome; and

"(2) epidemiological research relating to acquired immune deficiency syndrome.

"(c) SPECIAL PROGRAMME OF WORLD HEALTH ORGANIZATION.—Support provided by the Secretary pursuant to this section shall be in furtherance of the global strategy of the World Health Organization Special Programme on Acquired Immunodeficiency Syndrome.

"(d) PREFERENCES.—In providing grants, cooperative agreements, contracts, and technical assistance under subsections (a) and (b), the Secretary shall—

"(1) give preference to activities under such subsections conducted by, or in cooperation with, the World Health Organization; and

"(2) with respect to activities carried out under such subsections in the Western Hemisphere, give preference to activities conducted by, or in cooperation with, the Pan American Health Organization or the World Health Organization.

"(e) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant or enter into a cooperative agreement or contract under this section unless—

"(1) an application for such assistance is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which such assistance is to be provided, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

102 STAT. 3071

42 USC 300cc-16.

"SEC. 2316. RESEARCH CENTERS.

"(a) IN GENERAL.—

Grants. Contracts.

"(1) The Secretary, acting through the Director of the National Institute of Allergy and Infectious Diseases, may make grants to, and enter into contracts with, public and nonprofit private entities to assist such entities in planning, establishing, or strengthening, and providing basic operating support for, centers for basic and clinical research into, and training in, advanced diagnostic, prevention, and treatment methods for acquired immune deficiency syndrome.

"(2) A grant or contract under paragraph (1) shall be provided in accordance with policies established by the Secretary, acting

through the Director of the National Institutes of Health, and after consultation with the advisory council for the National Institute of Allergy and Infectious Diseases.

"(3) The Secretary shall ensure that, as appropriate, clinical research programs carried out under paragraph (1) include as research subjects women, children, hemophiliacs, and minorities.

"(b) USE OF FINANCIAL ASSISTANCE.—

"(1) Financial assistance under subsection (a) may be expended for—

"(A) the renovation or leasing of space;

"(B) staffing and other basic operating costs, including such patient care costs as are required for clinical research;

"(C) clinical training with respect to acquired immune deficiency syndrome (including such training for allied health professionals); and

"(D) demonstration purposes, including projects in the long-term monitoring and outpatient treatment of individuals infected with the etiologic agent for such syndrome.

"(2) Financial assistance under subsection (a) may not be expended to provide research training for which National Research Service Awards may be provided under section 487.

"(c) DURATION OF SUPPORT.—Support of a center under subsection (a) may be for not more than five years. Such period may be extended by the Director for additional periods of not more than five years each if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

"SEC. 2317. INFORMATION SERVICES.

42 USC 300cc-17.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish, maintain, and operate a program with respect to information on research, treatment, and prevention activities relating to infection with the etiologic agent for acquired immune deficiency syndrome. The program shall, with respect to the agencies of the Department of Health and Human Services, be integrated and coordinated.

"(b) TOLL-FREE TELEPHONE COMMUNICATIONS FOR HEALTH CARE ENTITIES.—

102 STAT. 3072

"(1) After consultation with the Director of the Office of AIDS Research, the Administrator of the Health Resources and Services Administration, and the Director of the Centers for Disease Control, the Secretary shall provide for toll-free telephone communications to provide medical and technical information with respect to acquired immune deficiency syndrome to health care professionals, allied health care providers, and to professionals providing emergency health services.

"(2) Information provided pursuant to paragraph (1) shall include—

"(A) information on prevention of exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome; and

"(B) information contained in the data banks established in subsections (c) and (d).

"(c) DATA BANK ON RESEARCH INFORMATION.—

"(1) After consultation with the Director of the Office of AIDS Research, the Director of the Centers for Disease Control, and the National Library of Medicine, the Secretary shall establish a data bank of information on the results of research with respect to acquired immune deficiency syndrome conducted in the United States and other countries.

"(2) In carrying out paragraph (1), the Secretary shall collect, catalog, store, and disseminate the information described in

such paragraph. To the extent practicable, the Secretary shall make such information available to researchers, physicians, and other appropriate individuals, of countries other than the United States.

"(d) DATA BANK ON CLINICAL TRIALS AND TREATMENTS.—

"(1) After consultation with the Commissioner of Food and Drugs, the Clinical Research Review Committee, and the Director of the Office of AIDS Research, the Secretary shall, in carrying out subsection (a), establish a data bank of information on clinical trials and treatments with respect to infection with the etiologic agent for acquired immune deficiency syndrome (hereafter in this section referred to as the 'Data Bank').

"(2) In carrying out paragraph (1), the Secretary shall collect, catalog, store, and disseminate the information described in such paragraph. The Secretary shall disseminate such information through information systems available to individuals infected with the etiologic agent for acquired immune deficiency syndrome, to other members of the public, to health care providers, and to researchers.

"(e) REQUIREMENTS WITH RESPECT TO DATA BANK.—The Data Bank shall include the following:

"(1) A registry of clinical trials of experimental treatments for acquired immune deficiency syndrome and related illnesses conducted under regulations promulgated pursuant to section 505 of the Federal Food, Drug and Cosmetic Act that provides a description of the purpose of each experimental drug protocol either with the consent of the protocol sponsor, or when a trial to test efficacy begins. Information provided shall include eligibility criteria and the location of trial sites, and must be forwarded to the Data Bank by the sponsor of the trial not later than 21 days after the approval by the Food and Drug Administration.

102 STAT. 3073

"(2) Information pertaining to experimental treatments for acquired immune deficiency syndrome that may be available under a treatment investigational new drug application that has been submitted to the Food and Drug Administration pursuant to part 312 of title 21, Code of Federal Regulations. The Data Bank shall also include information pertaining to the results of clinical trials of such treatments, with the consent of the sponsor, of such experimental treatments, including information concerning potential toxicities or adverse effects associated with the use or administration of such experimental treatment.

42 USC 300cc-18.

"SEC. 2318. DEVELOPMENT OF MODEL PROTOCOLS FOR CLINICAL CARE OF INFECTED INDIVIDUALS.

"(a) IN GENERAL.—

Grants.

"(1) The Secretary may make grants to public and nonprofit private entities for the establishment of projects to develop model protocols for the clinical care of individuals infected with the etiologic agent for acquired immune deficiency syndrome.

"(2) The Secretary may not make a grant under paragraph (1) unless—

"(A) the applicant for the grant is a provider of comprehensive primary care; or

"(B) the applicant for the grant agrees, with respect to the project carried out pursuant to paragraph (1), to enter into a cooperative arrangement with an entity that is a provider of comprehensive primary care.

"(b) REQUIREMENT OF PROVISION OF CERTAIN SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, with respect to patients participating in the project carried out with the grant, services provided pursuant to the grant will include—

"(1) monitoring, in clinical laboratories, of the condition of such patients;

"(2) Amounts appropriated pursuant to paragraph (1) to carry out subsection (c) shall remain available until expended. 102 STAT. 3076

"PART C—RESEARCH TRAINING

"SEC. 2341. FELLOWSHIPS AND TRAINING.

42 USC 300cc-31. Health care professionals.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control, shall establish fellowship and training programs to be conducted by the Centers for Disease Control to train individuals to develop skills in epidemiology, surveillance, testing, counseling, education, information, and laboratory analysis relating to acquired immune deficiency syndrome. Such programs shall be designed to enable health professionals and health personnel trained under such programs to work, after receiving such training, in national and international efforts toward the prevention, diagnosis, and treatment of acquired immune deficiency syndrome.

"(b) PROGRAMS CONDUCTED BY NATIONAL INSTITUTE OF MENTAL HEALTH.—The Secretary, acting through the Director of the National Institute of Mental Health, shall conduct or support fellowship and training programs for individuals pursuing graduate or postgraduate study in order to train such individuals to conduct scientific research into the psychological and social sciences as such sciences relate to acquired immune deficiency syndrome.

"(c) RELATIONSHIP TO LIMITATION ON NUMBER OF EMPLOYEES.—Any individual receiving a fellowship or receiving training under subsection (a) or (b) shall not be included in any determination of the number of full-time equivalent employees of the Department of Health and Human Services for the purpose of any limitation on the number of such employees established by law prior to, on, or after the date of the enactment of the AIDS Federal Policy Act of 1988.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"PART D—SPECIAL AUTHORITIES OF THE DIRECTOR OF THE NATIONAL INSTITUTES OF HEALTH

"SEC. 2351. ESTABLISHMENT OF AUTHORITIES.

42 USC 300cc-41.

"(a) IN GENERAL.—In carrying out research with respect to acquired immune deficiency syndrome, the Secretary, acting through the Director of the National Institutes of Health—

"(1)(A) shall establish an office to be known as the Office of AIDS Research, which Office shall be headed by a Director appointed by the Director of the National Institutes of Health; and

"(B) shall provide administrative support and support services to the Director of such Office;

"(2) shall coordinate activities relating to acquired immune deficiency syndrome conducted by the national research institutes and the agencies of the National Institutes of Health;

"(3) shall develop and expand clinical trials of treatments and therapies for infection with the etiologic agent for acquired immune deficiency syndrome, including such clinical trials for women, infants, children, hemophiliacs, and minorities;

"(4) may establish or support the large-scale development and preclinical screening, production, or distribution of specialized biological materials and other therapeutic substances for 102 STAT. 3077 research relating to acquired immune deficiency syndrome and set standards of safety and care for persons using such materials;

"(5) may, in consultation with the advisory council for the appropriate national research institute of the National Institutes of Health, support—

"(2) clinical intervention for infection with the etiologic agent for acquired immune deficiency syndrome, including measures for the prevention of conditions arising from the infection;

"(3) information and counseling on the availability of treatments for such infection approved by the Commissioner of Food and Drugs, on the availability of treatments for such infection not yet approved by the Commissioner, and on the reports issued by the Clinical Research Review Committee under section 2304(c)(2)(B);

"(4) support groups; and

"(5) information on, and referrals to, entities providing appropriate social support services.

"(c) LIMITATION ON IMPOSITION OF CHARGES FOR SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, if the applicant will routinely impose a charge for providing services pursuant to the grant, the applicant will not impose the charge on any individual seeking such services who is unable to pay the charge.

"(d) EVALUATION AND REPORTS.—

"(1) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to the project carried out pursuant to subsection (a), to submit to the Secretary—

102 STAT. 3074

"(A) information sufficient to assist in the replication of the model protocol developed pursuant to the project; and

"(B) such reports as the Secretary may require.

Reports.

"(2) The Secretary shall provide for evaluations of projects carried out pursuant to subsection (a) and shall annually submit to the Congress a report describing such projects. The report shall include the findings made as a result of such evaluations and may include any recommendations of the Secretary for appropriate administrative and legislative initiatives with respect to the program established in this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"SEC. 2319. NATIONAL BLOOD RESOURCE EDUCATION PROGRAM.

42 USC 300cc-19.
Research and development.
Public health and safety.

"After consultation with the Director of the National Heart, Lung, and Blood Institute and the Commissioner of Food and Drugs, the Secretary shall establish a program of research and education regarding blood donations and transfusions to maintain and improve the safety of the blood supply. Education programs shall be directed at health professionals, patients, and the community to—

"(1) in the case of the public and patients undergoing treatment—

"(A) increase awareness that the process of donating blood is safe;

"(B) promote the concept that blood donors are contributors to a national need to maintain an adequate and safe blood supply;

"(C) encourage blood donors to donate more than once a year; and

"(D) encourage repeat blood donors to recruit new donors;

"(2) in the case of health professionals—

"(A) improve knowledge, attitudes, and skills of health professionals in the appropriate use of blood and blood components;

"(B) increase the awareness and understanding of health professionals regarding the risks versus benefits of blood transfusion; and

"(C) encourage health professionals to consider alternatives to the administration of blood or blood components for their patients; and

"(3) in the case of the community, increase coordination, communication, and collaboration among community, profes-

sional, industry, and government organizations regarding blood donation and transfusion issues.

42 USC 300cc-20. Contracts. Grants.

"SEC. 2320. ADDITIONAL AUTHORITY WITH RESPECT TO RESEARCH.

"(a) DATA COLLECTION WITH RESPECT TO NATIONAL PREVALENCE.—

"(1) The Secretary, acting through the Director of the Centers for Disease Control, may, through representative sampling and other appropriate methodologies, provide for the continuous collection of data on the incidence in the United States of cases of acquired immune deficiency syndrome and of cases of infection with the etiologic agent for such syndrome. The Secretary may carry out the program of data collection directly or through cooperative agreements and contracts with public and nonprofit private entities.

102 STAT. 3075

"(2) The Secretary shall encourage each State to enter into a cooperative agreement or contract under paragraph (1) with the Secretary in order to facilitate the prompt collection of the most recent accurate data on the incidence of cases described in such paragraph.

"(3) The Secretary shall ensure that data collected under paragraph (1) includes data on the demographic characteristics of the population of individuals with cases described in paragraph (1), including data on specific subpopulations at risk of infection with the etiologic agent for acquired immune deficiency syndrome.

"(4) In carrying out this subsection, the Secretary shall, for the purpose of assuring the utility of data collected under this section, request entities with expertise in the methodologies of data collection to provide, as soon as is practicable, assistance to the Secretary and to the States with respect to the development and utilization of uniform methodologies of data collection.

"(5) The Secretary shall provide for the dissemination of data collected pursuant to this section. In carrying out this paragraph, the Secretary may publish such data as frequently as the Secretary determines to be appropriate with respect to the protection of the public health. The Secretary shall publish such data not less than once each year.

"(b) EPIDEMIOLOGICAL AND DEMOGRAPHIC DATA.—

"(1) The Secretary, acting through the Director of the Centers for Disease Control, shall develop an epidemiological data base and shall provide for long-term studies for the purposes of—

"(A) collecting information on the demographic characteristics of the population of individuals infected with the etiologic agent for acquired immune deficiency syndrome; and

"(B) developing models demonstrating the long-term domestic and international patterns of the transmission of such etiologic agent.

"(2) The Secretary may carry out paragraph (1) directly or through grants to, or cooperative agreements or contracts with, public and nonprofit private entities, including Federal agencies.

"(c) LONG-TERM RESEARCH.—The Secretary may make grants to public and nonprofit private entities for the purpose of assisting grantees in conducting long-term research into treatments for acquired immune deficiency syndrome developed from knowledge of the genetic nature of the etiologic agent for such syndrome.

"(d) SOCIAL SCIENCES RESEARCH.—The Secretary, acting through the Director of the National Institute of Mental Health, may make grants to public and nonprofit private entities for the purpose of assisting grantees in conducting scientific research into the psychological and social sciences as such sciences relate to acquired immune deficiency syndrome.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

pensation of not less than 780 employees for the Public Health Service in addition to the number of employees assigned to such Service as of December 31, 1987.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall report to the Congress on the allocation among the agencies of the Public Health Service of the 780 additional employees required in subsection (a).

(c) LIMITATION OF AVAILABILITY OF APPROPRIATIONS.—The requirement established in subsection (a) shall be carried out only to the extent of amounts made available in appropriations Acts for such purpose.

(d) EXPIRATION OF REQUIREMENT.—Effective October 1, 1990, this section is repealed.

SEC. 203. REQUIREMENT OF CERTAIN RESEARCH STUDIES.

42 USC 300cc note.

(a) MORTALITY RATES.—After consultation with the Director of the National Center for Health Services Research and Health Care Technology Assessment, the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall conduct a study for the purpose of determining the mortality rates with respect to acquired immune deficiency syndrome among individuals of various groups at risk of such syndrome, among various geographic areas, and among individuals with varying financial resources for the payment of health care services.

(b) USE OF CONSORTIA FOR RESEARCH AND DEVELOPMENT.—The Secretary of Health and Human Services shall request the National Academy of Sciences and other similar appropriate nonprofit institutions to report to the Secretary findings made by such institutions with respect to—

(1) the manner in which research on, and the development of, vaccines and drugs for the prevention and treatment of acquired immune deficiency syndrome and related conditions can be enhanced by the establishment of consortia—

(A) designed to combine and share resources needed for such research and development; and

(B) consisting of businesses involved in such research and development, of nonprofit research institutions, or of combinations of such businesses and such institutions; and

(2) the appropriate participation, if any, of the Federal Government in such consortia.

102 STAT. 3079

(c) REPORTS TO CONGRESS.—The Secretary of Health and Human Services shall submit to the Congress a report describing the findings made as a result of each of the studies required or requested in this section. The report for the study required in subsection (a) shall be submitted not later than 18 months after the date of the enactment of this Act. The report for the study requested in subsection (b) shall be submitted not later than 1 year after such date.

SEC. 204. CONFORMING AMENDMENTS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) in section 305(i), by striking "2313" each place it appears and inserting "2511";

(2) in section 465(f), by striking "2301" and inserting "2501"; and

(3) in section 497, by striking "2301" and inserting "2501".

Subtitle B—Health Services

SEC. 211. STATE FORMULA GRANTS, SUBACUTE CARE, AND COUNSELING AND TESTING.

The Public Health Service Act (42 U.S.C. 201 et seq.), as amended by section 201, is further amended by inserting after title XXIII the following new title:

"TITLE XXIV—HEALTH SERVICES WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

"PART A—FORMULA GRANTS TO STATES FOR HOME AND COMMUNITY-BASED HEALTH SERVICES

42 USC 300dd.

"SEC. 2401. ESTABLISHMENT OF PROGRAM.

"(a) ALLOTMENTS FOR STATES.—For the purpose described in subsection (b), the Secretary shall for each of the fiscal years 1989 and 1990 make an allotment for each State in an amount determined in accordance with section 2408. The Secretary shall make payments each such fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 2407.

"(b) PURPOSE OF GRANTS.—The Secretary may not make payments under subsection (a) for a fiscal year unless the State involved agrees to expend the payments only for the purpose of providing services in accordance with section 2402.

"(c) ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this part:

"(1) The term 'eligible individual' means an individual infected with the etiologic agent for acquired immune deficiency syndrome who either is medically dependent or chronically dependent.

"(2) The term 'medically dependent' means, with respect to an individual, that the individual has been certified by a physician as—

"(A) requiring the routine use of appropriate medical services (which may include home intravenous drug therapy) to prevent or compensate for the individual's serious deterioration, arising from infection with the etiologic agent for acquired immune deficiency syndrome, of physical health or cognitive function, and

102 STAT. 3080

"(B) being able to avoid long-term or repeated care as an inpatient or resident in a hospital, nursing facility, or other institution if home and community-based health services are provided to the individual.

"(3) The term 'chronically dependent' means, with respect to an individual, that the individual has been certified by a physician as—

"(A) being unable to perform, because of physical or cognitive impairment (without substantial assistance from another individual) arising from infection with the etiologic agent for acquired immune deficiency syndrome, at least 2 of the following activities of daily living: bathing, dressing, toileting, transferring, and eating, or

"(B) having a similar level of disability due to cognitive impairment (as defined by the Secretary).

"(d) HOME AND COMMUNITY-BASED HEALTH SERVICES DEFINED.—For purposes of this part, the term 'home and community-based health services'—

"(1) means, with respect to an eligible individual, skilled health services furnished to the individual in the individual's home pursuant to a written plan of care established by a health care professional for the provision of such services and items and services described in paragraph (2);

"(2) includes—

"(A) durable medical equipment,

"(B) homemaker/home health aide services and personal care services furnished in the individual's home,

"(C) day treatment or other partial hospitalization services,

"(D) home intravenous drug therapy (including prescription drugs administered intravenously as part of such therapy), and

"(E) routine diagnostic tests administered in the individual's home,

furnished pursuant to such plan of care; but

"(3) does not include, except as specifically provided in paragraph (2)—

"(A) diagnostic tests,

"(B) inpatient hospital services,

"(C) nursing facility services, and

"(D) prescription drugs.

"SEC. 2402. PROVISIONS WITH RESPECT TO CARRYING OUT PURPOSE OF GRANTS. 42 USC 300dd-1.

"(a) REQUIRED USES OF FUNDS.—The Secretary may not make payments under section 2401(a) unless the State involved agrees that the State will—

"(1) provide for home and community-based health services for eligible individuals pursuant to written plans of care established by health care professionals for providing such services to such individuals;

"(2) provide for the identification, location, and provision of outreach to eligible individuals;

"(3) provide for coordinating the provision of services under this part with the provision of similar or related services by public and private entities; and

102 STAT. 3081

"(4) give priority to the provision of outreach and home and community-based services to eligible individuals with low incomes.

"(b) AUTHORITY FOR GRANTS AND CONTRACTS.—A State may make payment for services under subsection (a) through grants to public and nonprofit private entities and through contracts with public and private entities. In providing such financial assistance, a State shall give priority to public and nonprofit private entities that have demonstrated experience in delivering home and community-based health services to individuals with the etiologic agent for acquired immune deficiency syndrome.

"SEC. 2403. REQUIREMENT OF SUBMISSION OF DESCRIPTION OF INTENDED USES OF GRANT. 42 USC 300dd-2.

"The Secretary may not make payments under section 2401(a) to a State for a fiscal year unless—

"(1) the State submits to the Secretary a description of the purposes for which the State intends to expend such payments for the fiscal year;

"(2) such description provides information relating to the services and activities to be provided, including a description of the manner in which such services and activities will be coordinated with any similar services and activities of public and private entities; and

"(3) such description includes information relating to (A) the process for determining which eligible individuals are medically dependent or chronically dependent and (B) the process for establishing written plans of care for the provision of home and community-based health services under this part.

"SEC. 2404. RESTRICTIONS ON USE OF GRANT. 42 USC 300dd-3.

"(a) IN GENERAL.—The Secretary may not make payments under section 2401(a) for a fiscal year to a State unless the State agrees that the payments will not be expended—

"(1) to provide for items or services described in section 2401(d)(3);

"(2) to make cash payments to intended recipients of services;

"(3) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment; or Real property.

"(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(b) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make payments under section 2401(a) for a fiscal year

"(C) the audit will be conducted in accordance with standards established by the Comptroller General of the United States for the audit of governmental organizations, programs, activities, and functions. 102 STAT. 3083

"(3) The Secretary may not make payments under section 2401(a) for a fiscal year unless the State involved agrees that, not later than 30 days after the completion of an audit under paragraph (2), the State will provide a copy of the audit report to the State legislature. Reports.

"(4) For purposes of paragraph (2), the term 'financial and compliance audit' means an audit to determine whether the financial statements of an audited entity present fairly the financial position, and the results of financial operations, of the entity in accordance with generally accepted accounting principles, and whether the entity has complied with laws and regulations that may have a material effect upon the financial statements.

"(c) AVAILABILITY TO PUBLIC.—The Secretary may not make payments under section 2401(a) unless the State involved agrees to make copies of the reports and audits described in this section available for public inspection.

"(d) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall, from time to time, evaluate the expenditures by the States of payments under section 2401(a) in order to assure that expenditures are consistent with the provisions of this part.

"SEC. 2406. ADDITIONAL REQUIRED AGREEMENTS. 42 USC 300dd-5.

"(a) IN GENERAL.—The Secretary may not make payments under section 2401(a) for a fiscal year unless the State involved agrees that—

"(1) the legislature of the State will conduct public hearings on the proposed use and distribution of the payments to be received from the allotments for each such fiscal year;

"(2)(A) the State will, to the maximum extent practicable, ensure that services provided to an individual pursuant to the program involved will be provided without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual;

"(B) if any charges are imposed for the provision of home and community-based health services for which assistance is provided under this part, such charges (i) will be pursuant to a public schedule of charges, (ii) will not be imposed on any eligible individual with an income that does not exceed 100 percent of the official poverty line, and (iii) for an eligible individual with an income that exceeds 100 percent of the official poverty line, will be adjusted to reflect the income of the individual;

"(3) the State will provide for periodic independent peer review to assess the quality and appropriateness of home and community-based health services provided by entities that receive funds from the State pursuant to section 2401(a);

"(4) the State will permit and cooperate with Federal investigations undertaken under section 2409(e);

"(5) the State will maintain State expenditures for home and community-based health services for individuals infected with the etiologic agent for acquired immune deficiency syndrome at a level equal to not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive payments; and 102 STAT. 3084

"(6) the State will not make payments from allotments made under section 2401(a) for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service (i) under any State compensation program, under an insurance policy, under any Federal or State health benefits program, or (ii) by an entity that provides health services on a prepaid basis.

42 USC 300dd-6.

"SEC. 2407. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

"The Secretary may not make payments under section 2401(a) to a State for a fiscal year unless—

"(1) the State submits to the Secretary an application for the payments containing agreements in accordance with sections 2401 through 2406;

"(2) the agreements are made through certification from the chief executive officer of the State;

"(3) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

"(4) the application contains the description of intended expenditures required in section 2403; and

"(5) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

42 USC 300dd-7.

"SEC. 2408. DETERMINATION OF AMOUNT OF ALLOTMENTS FOR STATES.

"(a) MINIMUM ALLOTMENT.—Subject to the extent of amounts made available in appropriations Acts, the amount of an allotment under section 2401(a) for—

District of Columbia. Puerto Rico.

"(1) each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, for a fiscal year shall be the greater of—

"(A) $100,000, and

"(B) an amount determined under subsection (b); and

"(2) each territory of the United States (as defined in section 2413(5)) shall be $25,000.

"(b) DETERMINATION UNDER FORMULA.—

"(1) The amount referred to in subsection (a)(1)(B) for a State is the product of—

"(A) an amount equal to the amount appropriated pursuant to section 2414(a) for the fiscal year involved; and

"(B) the ratio of the distribution factor for the State to the sum of the distribution factors for all the States.

"(2) In paragraph (1)(B), the term 'distribution factor' means, for a State, the product of—

"(A) the number in the State of additional cases of acquired immune deficiency syndrome, as indicated by the number of such cases reported to and confirmed by the Secretary for the most recent fiscal year for which such data are available, and

"(B) the ratio (based on the most recent available data) of (i) the average per capita income of individuals in the United States to (ii) the average per capita income of individuals in the State;

102 STAT. 3085

except that the distribution factors for all the States and territories shall be proportionally reduced to the extent necessary to assure that the total of the allotments under subsection (a) for all the States and territories for each fiscal year does not exceed the amount appropriated pursuant to section 2414(a) for the fiscal year.

"(c) INDIAN TRIBES.—

"(1) Upon the request of the governing body of an Indian tribe or tribal organization within a State to the Secretary, the Secretary shall—

"(A) reserve from the amount that otherwise would be allotted for the fiscal year to the State under subsection (a) an amount determined in accordance with paragraph (2); and

"(B) grant the amount reserved under subparagraph (A) to the Indian tribe or tribal organization serving eligible individuals who are members of the Indian tribe or tribal organization.

"(2) The amount reserved under paragraph (1)(A) shall be an amount equal to the product of—

"(A) the amount that otherwise would be allotted to the State under subsection (a) for the fiscal year; and

"(B) the Secretary's estimate of the proportion of the number of additional cases described in subsection (b)(2)(A) that are attributable to members of the Indian tribe or tribal organization.

"(3) The Secretary may not make a grant under paragraph (1)(B) to an Indian tribe or tribal organization unless the Indian tribe or tribal organization submits to the Secretary an application meeting the requirements of such an application under section 2407.

"(d) DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.—

"(1) Amounts described in paragraph (2) shall, in accordance with paragraph (3), be allotted by the Secretary to States receiving payments under section 2401(a) for the fiscal year (other than any State referred to in paragraph (2)(B)).

"(2) The amounts referred to in paragraph (1) are any amounts that are not paid to States or territories under section 2401(a) as a result of—

"(A) the failure of any State or territory to submit an application under section 2407 within a reasonable time period established by the Secretary; or

"(B) any State or territory informing the Secretary that the State or territory does not intend to expend the full amount of the allotment made to the State or territory.

"(3) The amount of an allotment under paragraph (1) for a State for a fiscal year shall be an amount equal to the product of—

"(A) an amount equal to the amount described in paragraph (2) for the fiscal year involved; and

"(B) the ratio determined under subsection (b)(1)(B) for the State.

"SEC. 2409. FAILURE TO COMPLY WITH AGREEMENTS.

42 USC 300dd-8.

102 STAT. 3086

"(a) REPAYMENT OF PAYMENTS.—

"(1) The Secretary may, subject to subsection (c), require a State to repay any payments received by the State under section 2401(a) that the Secretary determines were not expended by the State in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 2407.

"(2) If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any payment due to be paid to the State under section 2401(a).

"(b) WITHHOLDING.—

"(1) The Secretary may, subject to subsection (c), withhold payments due under section 2401(a) if the Secretary determines that the State involved is not expending amounts received under such section in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 2407.

"(2) The Secretary shall cease withholding payments from a State under paragraph (1) if the Secretary determines that there are reasonable assurances that the State will expend amounts received under section 2401(a) in accordance with the agreements referred to in such paragraph.

"(c) OPPORTUNITY FOR HEARING.—Before requiring repayment of payments under subsection (a)(1), or withholding payments under subsection (b)(1), the Secretary shall provide to the State an opportunity for a hearing conducted within the State.

"(d) TECHNICAL VIOLATIONS.—The Secretary may not require repayment under subsection (a)(1), or withhold payments under subsection (b)(1), for a technical violation, as determined by the

shall include a recommendation as to whether or not the program under this part should be extended beyond fiscal year 1990 and may include any recommendations of the Secretary for appropriate administrative and legislative initiatives.

"SEC. 2413. DEFINITIONS. 42 USC 300dd-12.

"For purposes of this part:

"(1) The terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in sections 4(b) and 4(c) of the Indian Self-Determination and Education Assistance Act.

"(2) The term 'infected with the etiologic agent for acquired immune deficiency syndrome' includes any condition arising from infection with such etiologic agent.

"(3)(A) An individual is considered to have low income if the individual's income does not exceed 200 percent of the official poverty line.

"(B) The term 'official poverty line' refers, with respect to an individual, to the official poverty line defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981, applicable to a family of the size involved. 102 STAT. 3088

"(4)(A) The term 'State' means, except as provided in subparagraph (B), each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and each territory of the United States.

"(B) For purposes of section 2408(d), the term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(5) The term 'territory of the United States' means each of the following: the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"SEC. 2414. FUNDING. 42 USC 300dd-13.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under section 2401, there are authorized to be appropriated $100,000,000 for each of the fiscal years 1989 and 1990.

"(b) AVAILABILITY TO STATES.—Any amounts paid to a State or territory under section 2401(a) shall remain available to the State or territory until the expiration of the 1-year period beginning on the date on which the State or territory receives such amounts.

"SEC. 2415. SUNSET. 42 USC 300dd-14.

"Effective with respect to appropriations made for any period after fiscal year 1990, part A of title XXIV of the Public Health Service Act is repealed.

"PART B—SUBACUTE CARE

"SEC. 2421. DEMONSTRATION PROJECTS. 42 USC 300dd-21.

"(a) As used in this section:

"(1) The term 'patients infected with the human immunodeficiency virus' means persons who have a disease, or are recovering from a disease, attributable to the infection of such person with the human immunodeficiency virus, and as a result of the effects of such disease, are in need of subacute-care services.

"(2) The term 'subacute care' means medical and health care services that are required for persons recovering from acute care episodes that are less intensive than the level of care provided in acute-care hospitals, and includes skilled nursing care, hospice care, and other types of health services provided in other long-term-care facilities.

"(b) The Secretary shall conduct three demonstration projects to determine the effectiveness and cost of providing the subacute-care services described in subsection (b) to patients infected with the human immunodeficiency virus, and the impact of such services on the health status of such patients.

"(c)(1) The services provided under each demonstration project shall be designed to meet the specific needs of patients infected with the human immunodeficiency virus, and shall include—

"(A) the care and treatment of such patients by providing—

"(i) subacute care;

"(ii) emergency medical care and specialized diagnostic and therapeutic services as needed and where appropriate, either directly or through affiliation with a hospital that has experience in treating AIDS patients; and

102 STAT. 3089

"(iii) case management services to ensure, through existing services and programs whenever possible, appropriate discharge planning for patients; and

"(B) technical assistance, to other facilities in the region served by such facility, that is directed toward education and training of physicians, nurses, and other health-care professionals in the subacute care and treatment of patients infected with the human immunodeficiency virus.

"(2) Services provided under each demonstration project may also include—

"(A) hospice services;

"(B) outpatient care; and

"(C) outreach activities in the surrounding community to hospitals and other health-care facilities that serve patients infected with the human immunodeficiency virus.

"(d) The demonstration projects shall be conducted—

"(1) during a 4-year period beginning not later than 9 months after the date of enactment of this section; and

"(2) at sites that—

"(A) are geographically diverse and located in areas that are appropriate for the provision of the required and authorized services; and

"(B) have the highest incidence of AIDS cases and the greatest need for subacute-care services.

"(e) The Secretary shall evaluate the operations of the demonstration projects and shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

Reports.

"(1) not later than 18 months after the beginning of the first project, a preliminary report that contains—

"(A) a description of the sites at which the projects are being conducted and of the services being provided in each project; and

"(B) a preliminary evaluation of the experience of the projects in the first 12 months of operation; and

"(2) not later than 6 months after the completion of the last project, a final report that contains—

"(A) an assessment of the costs of subacute care for patients infected with the human immunodeficiency virus, including a breakdown of all other sources of funding for the care provided to cover subacute care; and

"(B) recommendations for appropriate legislative changes.

Research and development.

"(f) Each demonstration project shall provide for other research to be carried out at the site of such demonstration project including—

"(1) clinical research on the acquired immunodeficiency syndrome, concentrating on research on the neurological manifestations resulting from infection with the human immunodeficiency virus; and

"(2) the study of the psychological and mental health issues related to the acquired immunodeficiency syndrome.

Appropriation authorization.

"(g)(1) To carry out this section, there are authorized to be appropriated $10,000,000 for fiscal year 1988 and such sums as are necessary for each of the fiscal years 1989 through 1991.

"(2) Amounts appropriated pursuant to paragraph (1) shall remain available until September 10, 1992. 102 STAT. 3090

"(h) The Secretary shall enter into an agreement with the Administrator of the Veterans' Administration to ensure that appropriate provision will be made for the furnishing, through demonstration projects, of services to eligible veterans, under contract with the Veterans' Administration pursuant to section 620 of title 38, United States Code. Contracts. Veterans.

"PART C—OTHER HEALTH SERVICES

"Subpart I—Counseling and Testing

"SEC. 2431. GRANTS FOR ANONYMOUS TESTING. 42 USC 300dd-31.

"The Secretary may make grants to the States for the purpose of providing opportunities for individuals—

"(1) to undergo counseling and testing with respect to the etiologic agent for acquired immune deficiency syndrome without being required to provide any information relating to the identity of the individuals; and

"(2) to undergo such counseling and testing through the use of a pseudonym.

"SEC. 2432. REQUIREMENT OF PROVISION OF CERTAIN COUNSELING SERVICES. 42 USC 300dd-32.

"(a) COUNSELING BEFORE TESTING.—The Secretary may not make a grant under section 2431 to a State unless the State agrees that, before testing an individual pursuant to such section, the State will provide to the individual appropriate counseling with respect to acquired immune deficiency syndrome (based on the most recent scientific data relating to such syndrome), including—

"(1) measures for the prevention of exposure to, and the transmission of, the etiologic agent for such syndrome;

"(2) the accuracy and reliability of the results of such testing;

"(3) the significance of the results of such testing, including the potential for developing acquired immune deficiency syndrome; and

"(4) encouraging individuals, as appropriate, to undergo testing for such etiologic agent and providing information on the benefits of such testing.

"(b) COUNSELING OF INDIVIDUALS WITH NEGATIVE TEST RESULTS.—The Secretary may not make a grant under section 2431 to a State unless the State agrees that, if the results of testing conducted pursuant to such section indicate that an individual is not infected with the etiologic agent for acquired immune deficiency syndrome, the State will review for the individual the information provided pursuant to subsection (a) with respect to such syndrome, including—

"(1) the information described in paragraphs (1) through (3) of such subsection; and

"(2) the appropriateness of further counseling, testing, and education of the individual with respect to acquired immune deficiency syndrome.

"(c) COUNSELING OF INDIVIDUALS WITH POSITIVE TEST RESULTS.—The Secretary may not make a grant under section 2431 to a State unless the State agrees that, if the results of testing conducted pursuant to such section indicate that the individual is infected with the etiologic agent for acquired immune deficiency syndrome, the State will provide to the individual appropriate counseling with respect to such syndrome, including— 102 STAT. 3091

"(1) reviewing the information described in paragraphs (1) through (3) of subsection (a);

"(2) reviewing the appropriateness of further counseling, testing, and education of the individual with respect to acquired immune deficiency syndrome;

"(A) research relating to acquired immune deficiency syndrome conducted outside the United States by qualified foreign professionals if such research can reasonably be expected to benefit the people of the United States;

"(B) collaborative research involving American and foreign participants; and

"(C) the training of American scientists abroad and foreign scientists in the United States;

"(6) may encourage and coordinate research relating to acquired immune deficiency syndrome conducted by any industrial concern that evidences a particular capability for the conduct of such research;

Real property.

"(7)(A) may, in consultation with such advisory council, acquire, improve, repair, operate, and maintain laboratories, other research facilities, equipment, and such other real or personal property as the Director of the National Institutes of Health determines necessary;

Grants.

"(B) may, in consultation with such advisory council, make grants for the construction or renovation of facilities; and

District of Columbia. Public buildings and grounds.

"(C) may, in consultation with such advisory council, acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34) by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the National Institutes of Health for a period not to exceed ten years; and

Contracts.

"(8) subject to section 405(b)(2) and without regard to section 3324 of title 31, United States Code, and section 3709 of the Revised Statutes (41 U.S.C. 5), may enter into such contracts and cooperative agreements with any public agency, or with any person, firm, association, corporation, or educational institution, as may be necessary to expedite and coordinate research relating to acquired immune deficiency syndrome.

"(b) REPORT TO SECRETARY.—The Director of the National Institutes of Health, acting through the Director of the Office of AIDS Research, shall each fiscal year prepare and submit to the Secretary, for inclusion in the comprehensive report required in section 2301(a), a report—

"(1) describing and evaluating the progress made in such fiscal year in research, treatment, and training with respect to acquired immune deficiency syndrome conducted or supported by the Institutes;

"(2) summarizing and analyzing expenditures made in such fiscal year for activities with respect to acquired immune deficiency syndrome conducted or supported by the National Institutes of Health; and

"(3) containing such recommendations as the Director considers appropriate.

State and local governments. Research and development.

"(c) PROJECTS FOR COOPERATION AMONG PUBLIC AND PRIVATE HEALTH ENTITIES.—In carrying out subsection (a), the Director of the National Institutes of Health shall establish projects to promote cooperation among Federal agencies, State, local, and regional public health agencies, and private entities, in research concerning the diagnosis, prevention, and treatment of acquired immune deficiency syndrome.

102 STAT. 3078

"PART E—GENERAL PROVISIONS

42 USC 300cc-51.

"SEC. 2361. DEFINITION.

"For purposes of this title, the term 'infection with the etiologic agent for acquired immune deficiency syndrome' includes any condition arising from infection with such etiologic agent.".

SEC. 202. AUTHORIZATION OF ADDITIONAL PERSONNEL.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services, shall, in accordance with the civil service and classification laws, appoint and fix the com-

unless the State involved agrees that the State will not expend more than 5 percent of the payments made to the State under such section for administrative expenses with respect to carrying out the purpose of this part.

"(c) LIMITATION ON TOTAL PAYMENTS.—

"(1) Before March 1, 1989, for fiscal year 1989 and before September 1 of 1989 for fiscal year 1990, the Secretary shall determine and publish the national average monthly payments, for extended care services under part A of title XVIII of the Social Security Act, for each resident of a skilled nursing facility the Secretary estimates will be paid in the fiscal year.

"(2) The Secretary may not make payments under section 2401(a) for a fiscal year to a State to the extent that the average monthly payments for eligible individuals provided home and community-based health services under this part in the State exceeds 65 percent of the national average monthly payments determined and published for the fiscal year under paragraph (1).

102 STAT. 3082

42 USC 300dd-4.

"SEC. 2405. REQUIREMENT OF REPORTS AND AUDITS BY STATES.

"(a) REPORTS.—

"(1) The Secretary may not make payments under section 2401(a) for a fiscal year unless the State involved agrees to prepare and submit to the Secretary, by not later than January 1 following the fiscal year, an annual report in such form and containing such information as the Secretary determines (after consultation with the States and the Comptroller General of the United States) to be necessary for—

"(A) securing a record and a description of the purposes for which payments received by the State pursuant to section 2401(a) were expended and of the recipients of such payments;

"(B) determining whether the payments were expended in accordance with the purpose of this part; and

"(C) determining the percentage of payments received pursuant to section 2401(a) that were expended by the State for administrative expenses during the fiscal year involved.

"(2) Each report by a State under paragraph (1) for a fiscal year also shall include—

"(A) information on the number and type of eligible individuals provided home and community-based health services by the State under this part for the fiscal year;

"(B) information on the types of home and community-based health services so provided;

"(C) information on the average monthly costs of such services and a comparison of such costs with costs of providing services in hospitals, nursing facilities, and similar institutions; and

"(D) such other information as the Secretary may require to provide for an evaluation of the program under this part and its cost-effectiveness.

"(b) AUDITS.—

"(1) The Secretary may not make payments under section 2401(a) for a fiscal year unless the State involved agrees to establish such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursal of, and accounting for, amounts received by the State under such section.

"(2) The Secretary may not make payments under section 2401(a) for a fiscal year unless the State involved agrees that—

"(A) the State will provide for—

"(i) a financial and compliance audit of such payments; or

"(ii) a single financial and compliance audit of each entity administering such payments;

"(B) the audit will be performed biennially and will cover expenditures in each fiscal year; and

Secretary, of any agreement required to be contained in the application submitted by the State pursuant to section 2407.

"(e) INVESTIGATIONS.—

"(1) The Secretary shall conduct in the several States in each fiscal year investigations of the expenditure of payments received by the States under section 2401(a) in order to evaluate compliance with the agreements required to be contained in the applications submitted to the Secretary pursuant to section 2407.

Records.

"(2) Each State, and each entity receiving funds from payments made to a State under section 2401(a), shall make appropriate books, documents, papers, and records available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

"(3)(A) In conducting any investigation in a State, the Secretary and the Comptroller General of the United States may not make a request for any information not readily available to the State, or to an entity receiving funds from payments made to the State under section 2401(a), or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

"(B) Subparagraph (A) shall not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding.

42 USC 300dd-9.

"SEC. 2410. PROHIBITION AGAINST CERTAIN FALSE STATEMENTS.

"(a) IN GENERAL.—A person may not knowingly make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which amounts may be paid by a State from payments received by the State under section 2401(a).

"(b) CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.—Any person who violates a prohibition established in subsection (a) may for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

42 USC 300dd-10.

"SEC. 2411. TECHNICAL ASSISTANCE AND PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

"(a) TECHNICAL ASSISTANCE.—Upon the request of a State receiving payments under section 2401(a), the Secretary may, without charge to the State, provide to the State (or to any public or private entity designated by the State) technical assistance with respect to the planning, development, and operation of this part. The Secretary may provide such technical assistance directly, through contract, or through grants.

"(b) PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) Upon the request of a State receiving payments under section 2401(a), the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out this part and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

"(2) With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under section 2401(a) to the State by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

42 USC 300dd-11.

"SEC. 2412. REPORT BY SECRETARY.

"Not later than March 1, 1990, the Secretary shall report to the Congress on the activities of the States under this part. Such report

"(3) the importance of not exposing others to the etiologic agent for acquired immune deficiency syndrome;

"(4) the availability in the geographic area of any appropriate services with respect to health care, including mental health care and social and support services;

"(5) the benefits of locating and counseling any individual by whom the infected individual may have been exposed to the etiologic agent for acquired immune deficiency syndrome and any individual whom the infected individual may have exposed to such etiologic agent; and

"(6) the availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in paragraph (4).

"(d) RULE OF CONSTRUCTION WITH RESPECT TO COUNSELING WITHOUT TESTING.—Agreements entered into pursuant to subsections (a) through (c) may not be construed to prohibit any grantee under section 2431 from expending the grant for the purpose of providing counseling services described in such subsections to an individual who will not undergo testing described in such section as a result of the grantee or the individual determining that such testing of the individual is not appropriate.

"(e) USE OF FUNDS.—

"(1) The purpose of this part is to provide for counseling and testing services to prevent and reduce exposure to, and transmission of, the etiologic agent for acquired immune deficiency syndrome.

"(2) All individuals receiving counseling pursuant to this part are to be counseled about the harmful effects of promiscuous sexual activity and intravenous substance abuse, and the benefits of abstaining from such activities.

"(3) None of the fund appropriated to carry out this part may be used to provide counseling that is designed to promote or encourage, directly, homosexual or heterosexual sexual activity or intravenous drug abuse.

"(4) Paragraph (3) may not be construed to prohibit a counselor who has already performed the counseling of an individual required by paragraph (2), to provide accurate information about means to reduce an individual's risk of exposure to, or the transmission of, the etiologic agent for acquired immune deficiency syndrome, provided that any informational materials used are not obscene.

42 USC 300dd-33.

"SEC. 2433. FUNDING.

"For the purpose of grants under section 2431, there are authorized to be appropriated $100,000,000 for each of the fiscal years 1989 and 1990.

102 STAT. 3092

"Subpart II—Counseling and Mental Health Services

42 USC 300dd-41.

"SEC. 2441. DEMONSTRATION PROJECTS FOR INDIVIDUALS WITH POSITIVE TEST RESULTS.

Grants.

"(a) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities for demonstration projects for the development, establishment, or expansion of programs to provide counseling and mental health treatment—

"(1) for individuals who experience serious psychological reactions as a result of being informed that the results of testing for the etiologic agent for acquired immune deficiency syndrome indicate that the individuals are infected with such etiologic agent; and

"(2) for the families of such individuals, and for others, who experience serious psychological reactions as a result of being informed of the results of such testing of such individuals.

"(b) PREFERENCES IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to applicants that are based at, or have relationships with, entities providing comprehensive health services to individuals who are infected with the etiologic agent for acquired immune deficiency syndrome.

"(c) REQUIREMENT OF PROVISION OF INFORMATION ON PREVENTION.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that counseling provided pursuant to such subsection will include counseling relating to measures for the prevention of exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome.

"(d) AUTHORITY FOR TRAINING.—A grantee under subsection (a) may expend the grant to train individuals to provide the services described in such subsection.

"(e) REQUIREMENT OF IDENTIFICATION OF NEEDS AND OBJECTIVES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant submits to the Secretary—

"(1) information demonstrating that the applicant has, with respect to mental health treatment related to the etiologic agent for acquired immune deficiency syndrome, identified the need for such treatment in the area in which the program will be developed, established, or expanded; and

"(2) a description of—

"(A) the objectives established by the applicant for the conduct of the program; and

"(B) the method the applicant will use to evaluate the activities conducted under the program and to determine the extent to which such objectives have been met.

"(f) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(3) the application contains the information required to be submitted under subsection (e); and

"(4) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

102 STAT. 3093

"(g) REQUIREMENT OF MINIMUM NUMBER OF GRANTS FOR FISCAL YEAR 1989.—Subject to the extent of amounts made available in appropriations Acts, the Secretary shall, for fiscal year 1989, make not less than 6 grants under subsection (a).

"(h) TECHNICAL ASSISTANCE AND ADMINISTRATIVE SUPPORT.—The Secretary, acting through the Director of the National Institute of Mental Health, may provide technical assistance and administrative support to grantees under subsection (a).

"(i) DEFINITION.—For purposes of this section, the term 'mental health treatment' means individual, family or group services designed to alleviate distress, improve functional ability, or assist in changing dysfunctional behavior patterns.

"(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.".

Subtitle C—Prevention

SEC. 221. FORMULA GRANTS TO STATES.

The Public Health Service Act (42 U.S.C. 201 et seq.), as amended by section 211, is further amended by inserting after title XXIV the following new title:

public safety workers (including emergency response employees), teachers, school administrators, and other appropriate education personnel;

"(7) to conduct appropriate programs for educating school-aged children with respect to such syndrome, after consulting with local school boards;

"(8) to make available to physicians and dentists in the State information with respect to acquired immune deficiency syndrome, including measures for the prevention of exposure to, and the transmission of, the etiologic agent for such syndrome (which information is updated not less than annually with the most recently available scientific date relating to such syndrome);

"(9) to carry out the initial implementation of recommendations contained in the guidelines and the model curriculum developed under section 2525; and

"(10) to make grants to public entities, and to nonprofit private entities concerned with acquired immune deficiency syndrome, for the purpose of the development, establishment, and expansion of programs for education directed toward individuals at increased risk of infection with the etiologic agent for such syndrome and activities to reduce the risks of exposure to such etiologic agent, with preference to programs directed toward populations in which there is significant evidence of such infection. Grants. Education.

102 STAT. 3095

"SEC. 2503. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES. 42 USC 300ee-13.

"(a) IN GENERAL.—The Secretary may not make payments under section 2501(a) for a fiscal year unless—

"(1) the State involved submits to the Secretary a description of the purposes for which the State intends to expend the payments for the fiscal year;

"(2) the description identifies the populations, areas, and localities in the State with a need for the services for which amounts may be provided by the State under this part;

"(3) the description provides information relating to the programs and activities to be supported and services to be provided, including a description of the manner in which such programs and activities will be coordinated with any similar programs and activities of public and private entities; and

"(4) the State submits to the Secretary an application for the payments containing agreements in accordance with this part;

"(5) the agreements are made through certification from the chief executive officer of the State;

"(6) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary; and

"(7) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(b) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary may not make payments under section 2501(a) for a fiscal year unless the State involved agrees that, in developing and carrying out the description required in subsection (a), the State will provide public notice with respect to the description (including any revisions) and will facilitate comments from interested persons.

"SEC. 2504. RESTRICTIONS ON USE OF GRANT. 42 USC 300ee-14.

"(a) IN GENERAL.—The Secretary may not make payments under section 2501(a) for a fiscal year unless the State involved agrees that the payments will not be expended—

"(1) to provide inpatient services;

"(2) to make cash payments to intended recipients of services;

"(3) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment; or Real property.

"(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(b) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make payments under section 2501(a) for a fiscal year unless the State involved agrees that the State will not expend more than 5 percent of the payments for administrative expenses with respect to carrying out the purpose described in section 2501(b).

42 USC 300ee-15.

"SEC. 2505. REQUIREMENT OF REPORTS AND AUDITS BY STATES.

"(a) REPORTS.—The Secretary may not make payments under section 2501(a) for a fiscal year unless the State involved agrees to prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines to be necessary for—

102 STAT. 3096

Records.

"(1) securing a record and a description of the purposes for which payments received by the State pursuant to such section were expended and of the recipients of such payments;

"(2) determining whether the payments were expended in accordance with the needs within the State required to be identified pursuant to section 2503(a)(2);

"(3) determining whether the payments were expended in accordance with the purpose described in section 2501(b); and

"(4) determining the percentage of payments received pursuant to such section that were expended by the State for administrative expenses during the preceding fiscal year.

"(b) AUDITS.—

"(1) The Secretary may not payments under section 2501(a) for a fiscal year unless the State involved agrees to establish such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursal of, and accounting for, amounts received by the State under such section.

"(2) The Secretary may not payments under section 2501(a) for a fiscal year unless the State involved agrees that—

"(A) the State will provide for—

"(i) a financial and compliance audit of such payments; or

"(ii) a single financial and compliance audit of each entity administering such payments;

"(B) the audit will be performed biennially and will cover expenditures in each fiscal year; and

"(C) the audit will be conducted in accordance with standards established by the Comptroller General of the United States for the audit of governmental organizations, programs, activities, and functions.

"(3) The Secretary may not make payments under section 2501(a) for a fiscal year unless the State involved agrees that, not later than 30 days after the completion of an audit under paragraph (2), the State will provide a copy of the audit report to the State legislature.

"(4) For purposes of paragraph (2), the term 'financial and compliance audit' means an audit to determine whether the financial statements of an audited entity present fairly the financial position, and the results of financial operations, of the entity in accordance with generally accepted accounting principles, and whether the entity has complied with laws and regulations that may have a material effect upon the financial statements.

Reports.

"(c) AVAILABILITY TO PUBLIC.—The Secretary may not make payments under section 2501(a) for a fiscal year unless the State involved agrees to make copies of the reports and audits described in this section available for public inspection.

"(d) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall, from time to time, evaluate the

"(c) OPPORTUNITY FOR HEARING.—Before requiring repayment of payments under subsection (a)(1), or withholding payments under subsection (b)(1), the Secretary shall provide to the State an opportunity for a hearing conducted within the State.

"(d) PROMPT RESPONSE TO SERIOUS ALLEGATIONS.—The Secretary shall promptly respond to any complaint of a substantial or serious nature that a State has failed to expend amounts received under section 2501(a) in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 2507.

"(e) INVESTIGATIONS.—

"(1) The Secretary shall conduct in several States in each fiscal year investigations of the expenditure of payments received by the States under section 2501(a) in order to evaluate compliance with the agreements required to be contained in the applications submitted to the Secretary pursuant to section 2507.

"(2) The Comptroller General of the United States may conduct investigations of the expenditure of funds received under section 2501(a) by a State in order to ensure compliance with the agreements referred to in paragraph (1).

Records.

"(3) Each State, and each entity receiving funds from payments made to a State under section 2501(a), shall make appropriate books, documents, papers, and records available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

"(4)(A) In conducting any investigation in a State, the Secretary and the Comptroller General of the United States may not make a request for any information not readily available to the State, or to an entity receiving funds from payments made to the State under section 2501(a), or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

102 STAT. 3101

"(B) Subparagraph (A) shall not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding.

42 USC 300ee-19.

"SEC. 2509. PROHIBITION AGAINST CERTAIN FALSE STATEMENTS.

"(a) IN GENERAL.—

"(1) A person may not knowingly make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which amounts may be paid by a State from payments received by the State under section 2501(a).

"(2) A person with knowledge of the occurrence of any event affecting the right of the person to receive any amounts from payments made to the State under section 2501(a) may not conceal or fail to disclose any such event with the intent of fraudulently securing such amounts.

"(b) CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.—Any person who violates a prohibition established in subsection (a) may for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

42 USC 300ee-20.

"SEC. 2510. TECHNICAL ASSISTANCE AND PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary may provide training and technical assistance to States with respect to the planning, development, and operation of any program or service carried out pursuant to this part. The Secretary may provide such technical assistance directly or through grants or contracts.

Contracts.

"(b) PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) Upon the request of a State receiving payments under this part, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out such part and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

"(2) With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the program involved to the State by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"SEC. 2511. EVALUATIONS.

42 USC 300ee-21. Grants. Contracts.

"The Secretary shall, directly or through grants or contracts, evaluate the services provided and activities carried out with payments to States under this part.

"SEC. 2512. REPORT BY SECRETARY.

42 USC 300ee-22.

"The Secretary shall annually prepare a report on the activities of the States carried out pursuant to this part. Such report may include any recommendations of the Secretary for appropriate administrative and legislative initiatives. The report shall be submitted to the Congress through inclusion in the comprehensive report required in section 2301.

102 STAT. 3102

"SEC. 2513. DEFINITION.

42 USC 300ee-23.

"For purposes of this part, the term 'infection with the etiologic agent for acquired immune deficiency syndrome' includes any condition arising from such etiologic agent.

"SEC. 2514. FUNDING.

42 USC 300ee-24.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making allotments under section 2501(a), there are authorized to be appropriated $165,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

"(b) AVAILABILITY TO STATES.—Any amounts paid to a State under section 2501(a) shall remain available to the State until the expiration of the 1-year period beginning on the date on which the State receives such amounts.

"PART B—NATIONAL INFORMATION PROGRAMS

"SEC. 2521. AVAILABILITY OF INFORMATION TO GENERAL PUBLIC.

42 USC 300ee-31.

"(a) COMPREHENSIVE INFORMATION PLAN.—The Secretary, acting through the Director of the Centers for Disease Control, shall annually prepare a comprehensive plan, including a budget, for a National Acquired Immune Deficiency Syndrome Information Program. The plan shall contain provisions to implement the provisions of this title. The Director shall submit such plan to the Secretary. The authority established in this subsection may not be construed to be the exclusive authority for the Director to carry out information activities with respect to acquired immune deficiency syndrome.

"(b) CLEARINGHOUSE.—

"(1) The Secretary, acting through the Director of the Centers for Disease Control, may establish a clearinghouse to make information concerning acquired immune deficiency syndrome available to Federal agencies, States, public and private entities, and the general public.

"(2) The clearinghouse may conduct or support programs—

"(A) to develop and obtain educational materials, model curricula, and methods directed toward reducing the transmission of the etiologic agent for acquired immune deficiency syndrome;

102 STAT. 3105

(A) the streamlining of rules, regulations, and administrative procedures relating to the approval by the Food and Drug Administration of new drugs and medical devices, including procedures for the release of experimental drugs; and

(B) the advancement of administrative consideration by the Health Care Financing Administration relating to reimbursement for new drugs and medical devices approved by the Food and Drug Administration.

(7) Evaluate the adequacy of, and make recommendations regarding, international coordination and cooperation concerning data collection, treatment modalities, and research concerning AIDS.

SEC. 244. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

President of U.S.

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Secretary of Health and Human Services;

(II) the Administrator of Veterans' Affairs; and

(III) the Secretary of Defense;

who shall be nonvoting members, except that, in the case of a tie vote by the Commission, the Secretary of Health and Human Services shall be a voting member; and

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in chapter 17 of title 38, United States Code (relating to veterans' health care), title XIX of the Social Security Act (42 U.S.C. 1901 et seq.) (relating to Medicaid), and the Public Health Service Act (42 U.S.C. 201 et seq.) (relating to the Public Health Service).

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their education, training, or experience; and

(B) engage in consultations for the purpose of ensuring that the expertise of the 10 members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of medicine, science, law, ethics, health-care economics, and health-care and social services.

102 STAT. 3106

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be earlier than September 1, 1988, and not be later than 60 days after the date of the enactment of this Act, or September 30, 1988, whichever is later. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least three times each year during the life of the Commission.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—While away from their homes or regular places of business in the performance of duties for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not earlier than July 11, 1988, and not later than 45 days after the date of the enactment of this Act, or August 1, 1988, whichever is later, the members of the Commission shall be appointed.

SEC. 245. REPORTS.

(a) INTERIM REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 244(a), the Commission shall prepare and submit to the President and to the appropriate committees of Congress a comprehensive report on the activities of the Commission to that date.

(2) CONTENTS.—The report submitted under paragraph (1) shall include such findings, and such recommendations for legislation and administrative action, as the Commission considers appropriate based on its activities to that date.

(3) OTHER REPORTS.—The Commission shall transmit such other reports as it considers appropriate.

(b) FINAL REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date on which the Commission is fully constituted under section 244(a), the Commission shall prepare and submit a final report to the President and to the appropriate committees of Congress.

(2) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate. 102 STAT. 3107

SEC. 246. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of basic pay payable under GS–18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under

"TITLE XV—PREVENTION OF ACQUIRED IMMUNE DEFICIENCY SYNDROME

42 USC 300ee.

"SEC. 2500. USE OF FUNDS.

"(a) IN GENERAL.—The purpose of this part is to provide for the establishment of education and information programs to prevent and reduce exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome.

"(b) CONTENTS OF PROGRAMS.—All programs of education and information receiving funds under this title shall include information about the harmful effects of promiscuous sexual activity and intravenous substance abuse, and the benefits of abstaining from such activities.

"(c) LIMITATION.—None of the funds appropriated to carry out this title may be used to provide education or information designed to promote or encourage, directly, homosexual or heterosexual sexual activity or intravenous substance abuse.

"(d) CONSTRUCTION.—Subsection (c) may not be construed to restrict the ability of an education program that includes the information required in subsection (b) to provide accurate information about various means to reduce an individual's risk of exposure to, or the transmission of, the etiologic agent for acquired immune deficiency syndrome, provided that any informational materials used are not obscene.

"PART A—FORMULA GRANTS TO STATES

42 USC 300ee–11.

"SEC. 2501. ESTABLISHMENT OF PROGRAM.

"(a) ALLOTMENTS FOR STATES.—For the purpose described in subsection (b), the Secretary shall for each of the fiscal years 1989 through 1991 make an allotment for each State in an amount determined in accordance with section 2507. The Secretary shall make payments each such fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 2503.

102 STAT. 3094

Public information.

"(b) PURPOSE OF GRANTS.—The Secretary may not make payments under subsection (a) for a fiscal year unless the State involved agrees to expend the payments only for the purpose of carrying out, in accordance with section 2502, public information activities with respect to acquired immune deficiency syndrome.

42 USC 300ee–12.

"SEC. 2502. PROVISIONS WITH RESPECT TO CARRYING OUT PURPOSE OF GRANTS.

"A State may expend payments received under section 2501(a)—

Public information.

"(1) to develop, establish, and conduct public information activities relating to the prevention and diagnosis of acquired immune deficiency syndrome for those populations or communities in the State in which there are a significant number of individuals at risk of infection with the etiologic agent for such syndrome;

Public information.

"(2) to develop, establish, and conduct such public information activities for the general public relating to the prevention and diagnosis of such syndrome;

Research and development.

"(3) to develop, establish, and conduct activities to reduce risks relating to such syndrome, including research into the prevention of such syndrome;

"(4) to conduct demonstration projects for the prevention of such syndrome;

"(5) to provide technical assistance to public entities, to nonprofit private entities concerned with such syndrome, to schools, and to employers, for the purpose of developing information programs relating to such syndrome;

Health care professionals. Education.

"(6) with respect to education and training programs for the prevention of such syndrome, to conduct such programs for health professionals (including allied health professionals),

expenditures by States of payments received under section 2501(a) in order to ensure that expenditures are consistent with the provisions of this part.

102 STAT. 3097

"SEC. 2506. ADDITIONAL REQUIRED AGREEMENTS.

42 USC 300ee-16.

"The Secretary may not, except as provided in subsection (b), make payments under section 2501(a) for a fiscal year unless the State involved agrees that—

"(1) all programs conducted or supported by the State with such payments will establish objectives for the program and will determine the extent to which the objectives are met;

"(2) information provided under this part will be scientifically accurate and factually correct;

"(3) in carrying out section 2501(b), the State will give priority to programs described in section 2502(10) for individuals described in such section;

"(4) with respect to a State in which there is a substantial number of individuals who are intravenous substance abusers, the State will place priority on activities under this part directed at such substance abusers;

"(5) with respect to a State in which there is a significant incidence of reported cases of acquired immune deficiency syndrome, the State will—

"(A) for the purpose described in subsection (b) of section 2501, expend not less than 50 percent of payments received under subsection (a) of such section for a fiscal year—

"(i) to make grants to public entities, to migrant health centers (as defined in section 329(a)), to community health centers (as defined in section 330(a)), and to nonprofit private entities concerned with acquired immune deficiency syndrome; or

Grants.

"(ii) to enter into contracts with public and private entities; and

Contracts.

"(B) of the amounts reserved for a fiscal year by the State for expenditures required in subparagraph (A), expend not less than 50 percent to carry out section 2502(10) through grants to nonprofit private entities, including minority entities, concerned with acquired immune deficiency syndrome located in and representative of communities and subpopulations reflecting the local incidence of such syndrome;

(For purposes of this section, the term 'significant percentage' means at least a percentage of 1 percent of the number of reported cases of such syndrome in the United States);

"(6) with respect to programs carried out pursuant to section 2502(10), the State will ensure that any applicant for a grant under such section agrees—

"(A) that any educational or informational materials developed with a grant pursuant to such section will contain material, and be presented in a manner, that is specifically directed toward the group for which such materials are intended;

Education.

"(B) to provide a description of the manner in which the applicant has planned the program in consultation with, and of the manner in which such applicant will consult during the conduct of the program with—

"(i) appropriate local officials and community groups for the area to be served by the program;

102 STAT. 3098

"(ii) organizations comprised of, and representing, the specific population to which the education or prevention effort is to be directed; and

"(iii) individuals having expertise in health education and in the needs of the population to be served;

"(C) to provide information demonstrating that the applicant has continuing relationships, or will establish continuing relationships, with a portion of the population in the service area that is at risk of infection with the etiologic agent for acquired immune deficiency syndrome and with public and private entities in such area that provide health or other support services to individuals with such infection;

"(D) to provide a description of—

"(i) the objectives established by the applicant for the conduct of the program; and

"(ii) the methods the applicant will use to evaluate the activities conducted under the program to determine if such objectives are met; and

"(E) such other information as the Secretary may prescribe;

"(7) with respect to programs carried out pursuant to section 2502(10), the State will give preference to any applicant for a grant pursuant to such section that is located in, has a history of service in, and will serve under the program, any geographic area in which—

"(A) there is a significant incidence of acquired immune deficiency syndrome;

"(B) there has been a significant increase in the incidence of such syndrome; or

"(C) there is a significant risk of becoming infected with the etiologic agent for such syndrome;

"(8) the State will establish reasonable criteria to evaluate the effective performance of entities that receive funds from to payments made to the State under section 2501(a) and will establish procedures for procedural and substantive independent State review of the failure by the State to provide funds for any such entity; and

"(9) the State will permit and cooperate with Federal investigations undertaken in accordance with section 2509(e);

"(10) the State will maintain State expenditures for services provided pursuant to section 2501 at a level equal to not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive payments.

42 USC 300ee-17.

"SEC. 2507. DETERMINATION OF AMOUNT OF ALLOTMENTS FOR STATES.

"(a) MINIMUM ALLOTMENT.—The allotment for a State under section 2501(a) for a fiscal year shall be the greater of—

"(1) the amount described in subsection (b); or

"(2) the amount determined in accordance with subsection (c).

"(b) DETERMINATION OF MINIMUM ALLOTMENT.—

"(1) If the total amount appropriated under section 2516(a) for a fiscal year exceeds $100,000,000, the amount referred to in subsection (a)(1) is $300,000 for the fiscal year.

"(2) If the total amount appropriated under section 2514(a) for a fiscal year equals or exceeds $50,000,000, but is less than $100,000,000, the amount referred to in subsection (a)(1) is $200,000 for the fiscal year.

102 STAT. 3099

"(3) If the total amount appropriated under section 2514(a) for a fiscal year is less than $50,000,000, the amount referred to in subsection (a)(1) is $100,000 for the fiscal year.

"(c) DETERMINATION UNDER FORMULA.—

"(1) The amount referred to in subsection (a)(2) is the sum of—

"(A) the amount determined under paragraph (2); and

"(B) the amount determined under paragraph (3).

"(2) The amount referred to in paragraph (1)(A) is the product of—

"(A) an amount equal to 50 percent of the amounts appropriated pursuant to section 2514(a); and

"(B) a percentage equal to the quotient of—

"(i) the population of the State involved; divided by
"(ii) the population of the United States.

"(3) The amount referred to in paragraph (1)(B) is the product of—

"(A) an amount equal to 50 percent of the amounts appropriated pursuant to section 2514(a); and

"(B) a percentage equal to the quotient of—

"(i) the number of additional cases of acquired immune deficiency syndrome reported to and confirmed by the Secretary for the State involved for the most recent fiscal year for which such data is available; divided by

"(ii) the number of additional cases of such syndrome reported to and confirmed by the Secretary for the United States for such fiscal year.

"(d) DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.—

"(1) Amounts described in paragraph (2) shall be allotted by the Secretary to States receiving payments under section 2501(a) for the fiscal year (other than any State referred to in paragraph (2)(C)). Such amounts shall be allotted according to a formula established by the Secretary. The formula shall be equivalent to the formula described in this section under which the allotment for the State for the fiscal year involved was determined.

"(2) The amounts referred to in paragraph (1) are any amounts that are not paid to States under section 2501(a) as a result of—

"(A) the failure of any State to submit an application under section 2507;

"(B) the failure, in the determination of the Secretary, of any State to prepare within a reasonable period of time such application in compliance with such section; or

"(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"SEC. 2508. FAILURE TO COMPLY WITH AGREEMENTS.

42 USC 300ee-18.

"(a) REPAYMENT OF PAYMENTS.—

"(1) The Secretary may, subject to subsection (c), require a State to repay any payments received by the State under section 2501(a) that the Secretary determines were not expended by the State in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 2507.

102 STAT. 3100

"(2) If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any payment due to be paid to the State under section 2501(a).

"(b) WITHHOLDING.—

"(1) The Secretary may, subject to subsection (c), withhold payments due under section 2501(a) if the Secretary determines that the State involved is not expending amounts received under such section in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 2507.

"(2) The Secretary shall cease withholding payments from a State under paragraph (1) if the Secretary determines that there are reasonable assurances that the State will expend amounts received under section 2501(a) in accordance with the agreements referred to in such paragraph.

"(3) The Secretary may not withhold funds under paragraph (1) from a State for a minor failure to comply with the agreements referred to in such paragraph.

"(B) to provide instruction and support for individuals who provide instruction in methods and techniques of education relating to the prevention of acquired immune deficiency syndrome and instruction in the use of the materials and curricula described in subparagraph (A); and

"(C) to conduct, or to provide for the conduct of, the materials, curricula, and methods described in paragraph (1) and the efficacy of such materials, curricula, and methods in preventing infection with the the etiologic agent for acquired immune deficiency syndrome.

"(c) TOLL-FREE TELEPHONE COMMUNICATIONS.—The Secretary shall provide for the establishment and maintenance of toll-free telephone communications to provide information to, and respond to queries from, the public concerning acquired immune deficiency syndrome. Such communications shall be available on a 24-hour basis.

102 STAT. 3103

42 USC 300ee–32. Grants. Contracts.

"SEC. 2522. PUBLIC INFORMATION CAMPAIGNS.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to public entities, and to nonprofit private entities concerned with acquired immune deficiency syndrome, and shall enter into contracts with public and private entities, for the development and delivery of public service announcements and paid advertising messages that warn individuals about activities which place them at risk of infection with the etiologic agent for such syndrome.

"(b) REQUIREMENT OF APPLICATION.—The Secretary may not provide financial assistance under subsection (a) unless—

"(1) an application for such assistance is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the assistance is to be provided, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

42 USC 300ee–33.

"SEC. 2523. PROVISION OF INFORMATION TO UNDERSERVED POPULATIONS.

Grants.

"(a) IN GENERAL.—The Secretary may make grants to public entities, to migrant health centers (as defined in section 329(a)), to community health centers (as defined in section 330(a)), and to nonprofit private entities concerned with acquired immune deficiency syndrome, for the purpose of assisting grantees in providing services to populations of individuals that are underserved with respect to programs providing information on the prevention of exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome.

"(b) PREFERENCES IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to any applicant for such a grant that has the ability to disseminate rapidly the information described in subsection (a) (including any national organization with such ability).

42 USC 300ee–34.

"SEC. 2524. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out sections 2521 through 2523, there are authorized to be appropriated $105,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

"(b) ALLOCATIONS.—

"(1) Of the amounts appropriated pursuant to subsection (a), the Secretary shall make available $45,000,000 to carry out section 2522 and $30,000,000 to carry out this part through financial assistance to minority entities for the provision of services to minority populations.

"(2) After consultation with the Director of the Office of Minority Health and with the Indian Health Service, the Secretary, acting through the Director of the Centers for Disease Control, shall, not later than 90 days after the date of the enactment of this section, publish guidelines to provide procedures for applications for funding pursuant to paragraph (1) and for public comment.".

Subtitle D—National Commission on Acquired Immune Deficiency Syndrome

National Commission on Acquired Immune Deficiency Syndrome Act. 42 USC 300cc note.

SEC. 241. SHORT TITLE.

This subtitle may be cited as the "National Commission on Acquired Immune Deficiency Syndrome Act".

SEC. 242. ESTABLISHMENT.

There is established a commission to be known as the "National Commission on Acquired Immune Deficiency Syndrome" (hereinafter in this Act referred to as the "Commission").

SEC. 243. DUTIES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purpose of promoting the development of a national consensus on policy concerning acquired immune deficiency syndrome (hereinafter in this subtitle referred to as "AIDS") and of studying and making recommendations for a consistent national policy concerning AIDS.

(b) SUCCESSION.—The Commission shall succeed the Presidential Commission on the Human Immunodeficiency Virus Epidemic, established by Executive Order 12601, dated June 24, 1987.

(c) FUNCTIONS.—The Commission shall perform the following functions:

(1) Monitor the implementation of the recommendations of the Presidential Commission on the Human Immunodeficiency Virus Epidemic, modifying those recommendations as the Commission considers appropriate.

(2) Evaluate the adequacy of, and make recommendations regarding, the financing of health care and research needs relating to AIDS, including the allocation of resources to various Federal agencies and State and local governments and the roles for and activities of private and public financing.

Research and development. State and local governments.

(3) Evaluate the adequacy of, and make recommendations regarding, the dissemination of information that is essential to the prevention of the spread of AIDS, and that recognizes the special needs of minorities and the important role of the family, educational institutions, religion, and community organizations in education and prevention efforts.

(4) Address any necessary behavioral changes needed to combat AIDS, taking into consideration the multiple moral, ethical, and legal concerns involved, and make recommendations regarding testing and counseling concerning AIDS, particularly with respect to maintaining confidentiality.

(5) Evaluate the adequacy of, and make recommendations regarding, Federal and State laws on civil rights relating to AIDS.

Civil rights.

(6) Evaluate the adequacy of, and make recommendations, regarding the capability of the Federal Government to make and implement policy concerning AIDS (and, to the extent feasible to do so, other diseases, known and unknown, in the future), including research and treatment, the availability of clinical trials, education and the financing thereof, and includ- [illegible] specifically—

subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

(e) DETAILED PERSONNEL AND SUPPORT SERVICES.—Upon the request of the Commission for the detail of personnel, or for administrative and support services, to assist the Commission in carrying out its duties under this Act, the Secretary of Health and Human Services and the Administrator of Veterans' Affairs, either jointly or separately, may on a reimbursable basis (1) detail to the Commission personnel of the Department of Health and Human Services or the Veterans' Administration, respectively, or (2) provide to the Commission administrative and support services. The Secretary and the Administrator shall consult for the purpose of determining and implementing an appropriate method for jointly or separately detailing such personnel and providing such services.

SEC. 247. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this Act, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this Act.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this Act, except to the extent that the department or agency is expressly prohibited by law from furnishing such information. On the request of the Chairman of the Commission, the head of such department or agency shall furnish nonprohibited information to the Commission.

102 STAT. 3108

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 248. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1989 $2,000,000, and such sums as may be necessary in any subsequent fiscal year, to carry out the purposes of this Act. Amounts appropriated pursuant to such authorization shall remain available until expended.

SEC. 249. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 245(b). The President may extend the life of the Commission for a period of not to exceed 2 years.

Subtitle E—General Provisions

42 USC 300ee-1 note.

SEC. 251. REQUIREMENT OF STUDY WITH RESPECT TO MINORITY HEALTH AND ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Office of Minority Health, shall conduct a study for the purpose of determining—

(1) the level of knowledge within minority communities concerning acquired immune deficiency syndrome, the risks of the transmission of the etiologic agent for such syndrome, and the means of reducing such risk; and

(2) the effectiveness of Federal, State, and local prevention programs with respect to acquired immune deficiency syndrome in minority communities.

(b) REPORT.—The Secretary shall, not later than 12 months after the date of enactment of this Act, complete the study required in subsection (a) and submit to the Congress a report describing the findings made as a result of the study.

SEC. 252. ESTABLISHMENT OF OFFICE WITH RESPECT TO MINORITY HEALTH AND ACQUIRED IMMUNE DEFICIENCY SYNDROME. 42 USC 300ee-1.

The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall establish an office for the purpose of ensuring that, in carrying out the duties of the Secretary with respect to prevention of acquired immune deficiency syndrome, the Secretary develops and implements prevention programs targeted at minority populations and provides appropriate technical assistance in the implementation of such programs.

SEC. 253. INFORMATION FOR HEALTH AND PUBLIC SAFETY WORKERS. 42 USC 300ee-2.

(a) DEVELOPMENT AND DISSEMINATION OF GUIDELINES.—Not later than 90 days after the date of the enactment of this title, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary"), acting through the Director of the Centers for Disease Control, shall develop, issue, and disseminate emergency guidelines to all health workers, public safety workers (including emergency response employees) in the United States concerning—

102 STAT. 3109

(1) methods to reduce the risk in the workplace of becoming infected with the etiologic agent for acquired immune deficiency syndrome; and

(2) circumstances under which exposure to such etiologic agent may occur.

(b) USE IN OCCUPATIONAL STANDARDS.—The Secretary shall transmit the guidelines issued under subsection (a) to the Secretary of Labor for use by the Secretary of Labor in the development of standards to be issued under the Occupational Safety and Health Act of 1970.

(c) DEVELOPMENT AND DISSEMINATION OF MODEL CURRICULUM FOR EMERGENCY RESPONSE EMPLOYEES.—

(1) Not later than 90 days after the date of the enactment of this title, the Secretary, acting through the Director of the Centers for Disease Control, shall develop a model curriculum for emergency response employees with respect to the prevention of exposure to the etiologic agent for acquired immune deficiency syndrome during the process of responding to emergencies.

(2) In carrying out paragraph (1), the Secretary shall consider the guidelines issued by the Secretary under subsection (a).

(3) The model curriculum developed under paragraph (1) shall, to the extent practicable, include—

(A) information with respect to the manner in which the etiologic agent for acquired immune deficiency syndrome is transmitted; and

(B) information that can assist emergency response employees in distinguishing between conditions in which such employees are at risk with respect to such etiologic agent and conditions in which such employees are not at risk with respect such etiologic agent.

(4) The Secretary shall establish a task force to assist the Secretary in developing the model curriculum required in paragraph (1). The Secretary shall appoint to the task force representatives of the Centers for Disease Control, representatives of State governments, and representatives of emergency response employees.

(5) The Secretary shall—

(A) transmit to State public health officers copies of the guidelines and the model curriculum developed under para-

graph (1) with the request that such officers disseminate such copies as appropriate throughout the State; and

Public information.

(B) make such copies available to the public.

42 USC 300ee-3.

SEC. 254. CONTINUING EDUCATION FOR HEALTH CARE PROVIDERS.

Grants.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") may make grants to nonprofit organizations composed of, or representing, health care providers to assist in the payment of the costs of projects to train such providers concerning—

(1) appropriate infection control procedures to reduce the transmission of the etiologic agent for acquired immune deficiency syndrome; and

(2) the provision of care and treatment to individuals with such syndrome or related illnesses.

Grants.

(b) LIMITATION.—The Secretary may make a grant under subsection (a) to an entity only if the entity will provide services under the

102 STAT. 3110

grant in a geographic area, or to a population of individuals, not served by a program substantially similar to the program described in subsection (a).

(c) REQUIREMENT OF MATCHING FUNDS.—

(1) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such subsection, to make available, directly or through donations from public or private entities, non-Federal contributions (in cash or in kind under paragraph (2)) toward such costs in an amount equal to not less than $2 for each $1 of Federal funds provided in such payments.

(2) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(d) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless—

(1) an application for the grant is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

42 USC 300ee-4.

SEC. 255. TECHNICAL ASSISTANCE.

The Secretary of Health and Human Services shall provide technical assistance to public and nonprofit private entities carrying out programs, projects, and activities relating to acquired immune deficiency syndrome.

SEC. 256. MISCELLANEOUS PROVISIONS.

(a) PUBLIC HEALTH EMERGENCY FUND.—Section 319 of the Public Health Service Act (42 U.S.C. 247d) is amended—

(1) in subsection (a), by inserting "the Administrator of Health Resources and Services," before "or the Director"; and

(2) in subsection (b)(1), by striking "$30,000,000" the second place it appears and inserting in lieu thereof "$45,000,000".

Drugs and drug abuse.
42 USC 300ee-5.

(b) CERTAIN USE OF FUNDS.—None of the funds provided under this Act or an amendment made by this Act shall be used to provide individuals with hypodermic needles or syringes so that such

individuals may use illegal drugs, unless the Surgeon General of the United States determines that a demonstration needle exchange program would be effective in reducing drug abuse and the risk that the public will become infected with the etiologic agent for acquired immune deficiency syndrome.

(c) REPORT ON CERTAIN ETHICAL ISSUES.—The Congressional Biomedical Ethics Board shall report to Congress within eighteen months from the effective date of this Act on the ethical issues connected with the administration of nutrition and hydration to dying patients. This report shall include a review of State laws, regulations and court decisions on this topic. The report shall also discuss the arguments concerning the appropriate roles of the patient, the patient's family, the care provider, the State and the appropriate Federal role. 42 USC 275 note.

102 STAT. 3111

(d) STUDY OF STATE LAWS.—

(1) The Secretary of Health and Human Services shall conduct a study for the purpose of determining—

(A) the laws and policies of the States relating to confidentiality and disclosure of information with respect to records of the counseling and testing of individuals regarding the etiologic agent for acquired immune deficiency syndrome; and

(B) the laws and policies of the States relating to discrimination against individuals infected with such etiologic agent or regarded as being so infected.

(2) Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall complete the study required in subsection (a) and submit to the Congress a report describing the findings made as a result of the study. Reports.

TITLE III—PREVENTIVE HEALTH, HEALTH SERVICES, AND HEALTH PROMOTION

Subtitle A—Preventive Health and Health Services

SEC. 301. BLOCK GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1901(a) of the Public Health Service Act (42 U.S.C. 300w(a)) is amended by striking "and" after "1986," and by inserting before the period the following: ", $110,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 and 1991".

(b) USE OF ALLOTMENTS.—Section 1904(a)(1) of the Public Health Service Act (42 U.S.C. 300w-3(a)(1)) is amended—

(1) in subparagraph (B), by inserting before the period the following: "and elevated serum cholesterol";

(2) in subparagraph (C), by inserting before the period the following: ", including programs designed to reduce the incidence of chronic diseases";

(3) in subparagraph (D), by inserting before the period the following: ", including immunization services";

(4) in subparagraph (F), in the second sentence, by striking "systems (other" and all that follows and inserting the following: "systems, except that such amounts may be used for the payment of not more than 50 percent of the costs of purchasing communications equipment for the systems."; and

(5) by inserting after subparagraph (G) the following new subparagraph:

102 STAT. 3112

"(H) Establishing and maintaining preventive health service programs for screening for, the detection, diagnosis, prevention, and referral for treatment of, and follow-up on compliance with treatment prescribed for, uterine cancer and breast cancer.".

(c) APPLICATION AND DESCRIPTION OF ACTIVITIES.—Section 1905(d) of the Public Health Service Act (42 U.S.C. 300w–4(d)) is amended by adding at the end the following new sentence: "The description shall include a statement of the public health objectives expected to be achieved by the State through the use of the payments the State will receive under section 1903.".

(d) REPORTS AND AUDITS.—

(1) Section 1906(a) of the Public Health Service Act (42 U.S.C. 300w–5(a)) is amended by adding at the end the following new paragraph:

"(3) Each annual report required in paragraph (1) shall include—

"(A) information and data on the number of individuals who received services provided through the use of payments under section 1903, the types of such services provided, the types of health care providers that delivered such services, and the cost of each type of such service;

"(B) such other information and data as the Secretary may require; and

"(C) an evaluation of the extent to which such services have been effective toward meeting the public health objectives described in the statement submitted to the Secretary pursuant to section 1905(d).".

(2) Section 1906(b)(6) of the Public Health Service Act (42 U.S.C. 300w–5(b)(6)) is amended by striking "1983," and inserting "1990,".

SEC. 302. GRANTS FOR EMERGENCY MEDICAL SERVICES FOR CHILDREN.

(a) DURATION OF GRANT.—Section 1910(a) of the Public Health Service Act (42 U.S.C. 300w–9(a)) is amended in the second sentence by striking "shall be for" and all that follows and inserting the following: "shall be for not more than a two-year period, subject to annual evaluation by the Secretary.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1910(d) of the Public Health Service Act (42 U.S.C. 300w–9(d)) is amended by inserting before the period the following: ", $3,000,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, and $5,000,000 for fiscal year 1991".

SEC. 303. REPEAL OF PROGRAM OF STATE PLANNING GRANTS.

42 USC 300w–10.

Part A of title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by striking section 1910A.

Subtitle B—Programs With Respect to Sexually Transmitted Diseases, Health Information, and Health Promotion

SEC. 311. GRANTS FOR PREVENTION OF SEXUALLY TRANSMITTED DISEASES.

Section 318 of the Public Health Service Act (42 U.S.C. 247c) is amended—

102 STAT. 3113

(1) in the title, by striking "and acquired immune deficiency syndrome";

(2) by striking subsections (d) and (f);

(3) by redesignating subsection (e) as subsection (d) and subsection (g) as subsection (e); and

(4) in subsection (d)(1) (as so redesignated)—

(A) in the first sentence—

(i) by striking "(b), (c), and (d)" and inserting "(b) and (c)";

(A) in subsection (b), by adding at the end thereof the following new sentence: "The Secretary may sell without recourse to eligible lenders (or other entities that the Secretary determines are capable of dealing in such loans) notes or other evidence of loans received through assignment under the first sentence."; and

(B) by adding at the end the following new subsections:

"(h)(1) With respect to the default by a borrower on any loan covered by Federal loan insurance under this subpart, the Secretary shall, under subsection (a), require an eligible lender or holder to commence and prosecute an action for such default unless—

"(A) in the determination of the Secretary—

"(i) the eligible lender or holder has made reasonable efforts to serve process on the borrower involved and has been unsuccessful with respect to such efforts, or

"(ii) prosecution of such an action would be fruitless because of the financial or other circumstances of the borrower;

"(B) for such loans made before the date of the enactment of the Health Professions Reauthorization Act of 1988, the loan involved was made in an amount of less than $5,000; or

102 STAT. 3124

"(C) for such loans made after such date, the loan involved was made in an amount of less than $2,500.

"(2) With respect to an eligible institution that has commenced an action pursuant to subsection (a), the Secretary shall make the payment required in such subsection, or deny the claim for such payment, not later than 60 days after the date on which the eligible institution notifies the Secretary that judgment has been entered with respect to the action.

"(i) The Secretary may establish reasonable limits for default rates for borrowers in each of the health professions identified in section 737(1). If the eligible institutions within any of the health professions, taken as a group, exceed such limits, the Secretary may suspend, terminate, or otherwise restrict the eligibility of such group of schools for borrowing under this section.".

(l) STATE DESIGNATIONS OF ELIGIBLE LENDERS.—Section 737(2) (42 U.S.C. 294j(2)) is amended—

(1) by striking "or" after "State," the second place such term appears; and

(2) by inserting before the period the following: ", or a nonprofit private entity designated by the State, regulated by the State, and approved by the Secretary".

(m) REISSUANCE AND REFINANCING AGREEMENTS AUTHORIZED.—Subpart I of part C of title VII (42 U.S.C. 294 et seq.) is amended by adding at the end thereof the following new section:

42 USC 294*l*-1.

"SEC. 739A. REISSUANCE AND REFINANCING OF CERTAIN LOANS.

"(a) IN GENERAL.—Any borrower who received a loan insured under this subpart bearing an interest rate that is fixed at a rate in excess of 12 percent per year may enter into an agreement with the eligible lender that made such loan for the reissuance of such loan in order to permit the borrower to obtain for such loan the interest rate in effect for loans insurable under this subpart on the date the borrower submits an application to such lender for such reissuance.

"(b) PROCEDURES.—

"(1) DISCHARGE BY OBTAINING LOAN.—Any borrower who received a loan under this subpart bearing an interest rate that is fixed at a rate in excess of 12 percent per year may obtain a loan from an eligible lender (other than the original lender) for the purpose of discharging the loan from such original eligible lender. A loan made for such purpose—

"(A) shall bear interest at the interest rate in effect for loans insurable under this subpart on the date the borrower submits an application for a loan under this subsection; and

"(B) shall be applied to discharge the borrower from any remaining obligation to the original eligible lender with respect to the original loan.

"(2) CERTIFICATION.—Each new eligible lender may accept certification from the original eligible lender to the borrower's original loan in lieu of presentation of the original promissory note.

"(c) TIME OF PAYMENT.—Any loan reissued under subsection (a) or refinanced under subsection (b) shall be payable during the repayment period applicable to the loan made under this subpart prior to the date of enactment of this section, and such reissuance or refinancing shall not result in the extension of the duration of the loan.

"(d) ADMINISTRATIVE COSTS.—An eligible lender reissuing a loan under subsection (a) or refinancing a loan under subsection (b) may charge a borrower an amount not in excess of $100 to cover the administrative costs of such reissuance or refinancing.

"(e) INSURANCE.—The reissuance of a loan under subsection (a) or the refinancing of a loan under subsection (b) shall not affect any insurance applicable to such loan, and no additional insurance premium may be charged with respect to such loan.

"(f) NOTIFICATION.—Each holder of a loan made under this subpart shall, not later than January 1, 1989, in the case of loans made before the date of enactment of this section, notify the borrower of such loan—

"(1) of the reissuance or refinancing options for which the borrower is eligible under this section;

"(2) of those options which will be made available by the holder; and

"(3) that, with respect to any option that the holder will not make available, the holder will, to the extent practicable, refer the borrower to an eligible lender offering such option.

"(g) REGULATIONS.—The Secretary shall promulgate regulations to implement this section.

"(h) DEFINITION.—For purposes of this section, the term 'eligible lender' includes the Student Loan Marketing Association.".

SEC. 603. FEDERAL CAPITAL CONTRIBUTIONS INTO STUDENT LOAN FUNDS.

(a) STANDARDS WITH RESPECT TO LOAN COLLECTION.—Section 740(c)(1) (42 U.S.C. 294m(c)(1)) is amended by adding at the end the following new sentence: "This subsection may not be construed to require such schools to reimburse the student loan fund under this subpart for loans that became uncollectible prior to August 1985 or to penalize such schools with respect to such loans.".

(b) REDUCTION IN INTEREST RATE.—Section 741(e) (42 U.S.C. 294n(e)) is amended by striking "9" and inserting "5".

(c) GRACE PERIOD FOR ALL FULL-TIME STUDENTS.—Section 741(c)(1) (42 U.S.C. 294n(c)(1)) is amended by striking "and" at the end of subparagraph (B) and by adding at the end the following new subparagraph:

"(D) during which the borrower is pursuing a full-time course of study at such a school; and".

(d) STRIKING OF DATE CERTAIN WITH RESPECT TO DISTRIBUTION OF ASSETS OF LOAN FUNDS.—Section 743 (42 U.S.C. 294p) is amended—

(1) in subsection (a), by amending the matter preceding paragraph (1) to read as follows: "If a school terminates a loan fund established under an agreement pursuant to section 740(b), or if the Secretary for good cause terminates the agreement with the school, there shall be a capital distribution as follows:"; and

(2) by amending subsection (b) to read as follows:

"(b) If a capital distribution is made under subsection (a), the school involved shall, after the capital distribution, pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school in payment of principal or interest on loans made from the loan fund established pursuant to section 740(b) as was determined by the Secretary under subsection (a).".

(ii) by striking "and" after "1986,";
(iii) by striking the period and inserting a comma; and
(iv) by adding at the end the following: "$78,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 and 1991.";
(B) in the third sentence, by striking "(b), (c), or (d)" and inserting "(b) or (c)"; and
(C) by striking the last sentence.

SEC. 312. HEALTH INFORMATION AND HEALTH PROMOTION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended—
(1) in section 1701(b)— 42 USC 300u.
(A) by striking "this title," and inserting "sections 1701 through 1705,"; and
(B) by striking "and" after "1986," and inserting before the period the following: ", and $10,000,000 for each of the fiscal years 1989 through 1991"; and
(2) in section 1706(e), by striking "and" after "1986," and inserting before the period the following: ", $6,000,000 for fiscal year 1989, $8,000,000 for fiscal year 1990, and $10,000,000 for fiscal year 1991". 42 USC 300u-5.

(b) MODEL PROGRAMS FOR EMPLOYEE HEALTH PROMOTION AND DISEASE PREVENTION.—
(1) Section 1701(a) of the Public Health Service Act (42 U.S.C. 300u(a)) is amended—
(A) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11), respectively; and
(B) by inserting after paragraph (6) the following new paragraph:
"(7)(A) develop model programs through which employers in the public sector, and employers that are small businesses (as defined in section 3 of the Small Business Act), can provide for their employees a program to promote healthy behaviors and to discourage participation in unhealthy behaviors; Small business.
"(B) provide technical assistance to public and private employers in implementing such programs (including private employers that are not small businesses and that will implement programs other than the programs developed by the Secretary pursuant to subparagraph (A)); and
"(C) in providing such technical assistance, give preference to small businesses;".
(2) Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall complete the development of the model programs required in section 1701(a)(7)(A) of the Public Health Service Act (as added by paragraph (1)(B) of this subsection). 42 USC 300u note.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1701(a) of the Public Health Service Act (42 U.S.C. 300u) is amended—
(1) in paragraph (9) (as redesignated by subsection (b)(1)(A) of this section), by striking "paragraph (7)" and inserting "paragraph (8)"; and
(2) in the matter after and below paragraph (11)(D) (as so redesignated)—
(A) by striking the first sentence; and
(B) by striking "paragraph (10)" and inserting "paragraph (11)".

TITLE IV—ORGAN TRANSPLANT AMENDMENTS OF 1988

Organ Transplant Amendments Act of 1988.

SEC. 401. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "Organ Transplant Amendments Act of 1988". 42 USC 201 note.

(b) REFERENCE.—Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 402. ASSISTANCE FOR ORGAN PROCUREMENT ORGANIZATIONS.

(a) ADDITIONAL GRANT AUTHORITY.—Section 371(a) (42 U.S.C. 273(a)) is amended—

(1) in paragraph (2), by inserting "consolidation," after "operation,";

(2) by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

"(3) The Secretary may make grants for special projects designed to increase the number of organ donors."; and

(3) in paragraph (4) (as redesignated in paragraph (2) of this subsection)—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(C) with respect to carrying out paragraph (3), give special consideration to proposals from existing organ procurement organizations.".

(b) LIMITATIONS ON ADDITIONAL GRANT AUTHORITY.—Section 374(b)(3) (42 U.S.C. 274b(b)(3)) is amended in the first sentence by striking "section 371" and all that follows through "organizations" and inserting "paragraphs (2) and (3) of section 371(a)".

(c) DESCRIPTION OF ORGAN PROCUREMENT ORGANIZATION.—

(1) Section 371(b) (42 U.S.C. 273(b)) is amended—

(A) in paragraph (1)(E)—

(i) by striking "size which" and inserting "size such that"; and

(ii) by striking "will include" and all that follows through "year" and inserting the following: "the organization can reasonably expect to procure organs from not less than 50 donors each year";

102 STAT. 3115

(B) in paragraph (2)(C), by striking "372(b)(2)(D)," and inserting the following: "372(b)(2)(E), including arranging for testing with respect to preventing the acquisition of organs that are infected with the etiologic agent for acquired immune deficiency syndrome,";

(C) in paragraph (2)(E)—

(i) by inserting "equitably" after "organs"; and

(ii) by striking "centers and"; and

(D) in paragraph (2)—

(i) by striking "and" at the end of subparagraph (I);

(ii) by striking the period at the end and inserting ", and"; and

(iii) by adding at the end the following new subparagraph:

"(K) assist hospitals in establishing and implementing protocols for making routine inquiries about organ donations by potential donors.".

(2) Section 371(b)(1)(G)(i)(III) is amended by inserting before the comma the following: "or an individual with a doctorate degree in a biological science with knowledge, experience, or skill in the field of histocompatibility".

42 USC 273 note.

(3) The amendment made by paragraph (1)(A) shall not apply to an organ procurement organization designated under section 1138(b) of the Social Security Act until 2 years after the initial designation of the organization under such section.

(d) AUTHORIZATIONS OF APPROPRIATIONS.—Section 371(c) (42 U.S.C. 273(c)) is amended to read as follows:

"(c) For grants under subsection (a), there is authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990.".

SEC. 403. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.

(a) DUTIES.—Section 372(b)(2) (42 U.S.C. 274(b)(2)) is amended—

(1)(A) by redesignating subparagraphs (B) through (H) as subparagraphs (C) through (I), respectively; and

(B) by adding after subparagraph (A) the following new subparagraph:

"(B) establish membership criteria and medical criteria for allocating organs and provide to members of the public an opportunity to comment with respect to such criteria,";

(2) in subparagraph (D) (as redesignated in paragraph (1)(A) of this subsection), by striking "organs which" and all that follows and inserting "organs,";

(3) in subparagraph (E) (as redesignated in paragraph (1)(A) of this subsection), strike "organs," and insert the following: "organs, including standards for preventing the acquisition of organs that are infected with the etiologic agent for acquired immune deficiency syndrome,";

(4) in subparagraph (F) (as redesignated in paragraph (1)(A) of this subsection), by striking "basis," and inserting the following: "basis (and, to the extent practicable, among regions or on a national basis),"; and

(5)(A) by striking "and" at the end of subparagraph (H) (as redesignated in paragraph (1)(A) of this subsection);

(B) by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph: 102 STAT. 3116

"(J) carry out studies and demonstration projects for the purpose of improving procedures for organ procurement and allocation.".

(b) CONSIDERATION OF CRITICAL COMMENTS.—Section 372 (42 U.S.C. 274) is amended by adding at the end the following new subsection:

"(c) The Secretary shall establish procedures for—

"(1) receiving from interested persons critical comments relating to the manner in which the Organ Procurement and Transplantation Network is carrying out the duties of the Network under subsection (b); and

"(2) the consideration by the Secretary of such critical comments.".

SEC. 404. REQUIREMENT OF ESTABLISHMENT OF BONE MARROW REGISTRY.

(a) IN GENERAL.—Section 373 (42 U.S.C. 274a) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsection:

"(b)(1) Not later than October 1, 1988, the Secretary shall, by grant or contract, establish a registry of voluntary bone marrow donors. Grants. Contracts.

"(2) For the purpose of carrying out paragraph (1), there are authorized to be appropriated $1,500,000 for fiscal year 1989 and $1,600,000 for fiscal year 1990.". Appropriation authorization.

(b) CONFORMING AMENDMENT.—Section 373 (42 U.S.C. 274a) is amended in the title by inserting "AND BONE MARROW REGISTRY" after "REGISTRY".

SEC. 405. ADMINISTRATION.

Section 375 (42 U.S.C. 274c) is amended—

(1) in the matter preceding paragraph (1), by striking "1985, 1986, 1987, and 1988," and inserting "1985 through 1990,"; and

(2) in paragraph (4), by striking "one year" and all that follows through "annual report" and inserting the following: "not later than April 1 of each of the years 1989 and 1990, submit to the Congress a report". Reports.

SEC. 406. REPORT.

Section 376 (42 U.S.C. 274d) is amended by striking "shall annually" and inserting the following: "shall, not later than October 1 of each year,".

SEC. 407. FETAL ORGAN TRANSPLANTS.

Section 301(c)(1) of the National Organ Transplant Act (42 U.S.C. 274e(c)(1)) is amended to read as follows:

"(1) The term 'human organ' means the human (including fetal) kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, and skin or any subpart thereof and any other human organ (or any subpart thereof, including that derived from a fetus) specified by the Secretary of Health and Human Services by regulation.".

SEC. 408. ESTABLISHMENT OF BLOCK GRANT PROGRAM.

(a) IN GENERAL.—Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end thereof the following new part:

102 STAT. 3117

"PART D—IMMUNOSUPPRESSIVE DRUG THERAPY BLOCK GRANT

42 USC 300y-21.

"SEC. 1931. DEFINITIONS.

"For purposes of this part:

"(1) ELIGIBLE PATIENT.—The term 'eligible patient' means an organ transplant patient who is not eligible to receive reimbursement for the cost of immunosuppressive drug therapy under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), under the State's medicaid plan under title XIX of such Act (42 U.S.C. 1396 et seq.), or under private insurance.

"(2) IMMUNOSUPPRESSIVE DRUG THERAPY.—The term 'immunosuppressive drug therapy' means drugs and biologicals that are to be used for the purpose of preventing the rejection of transplanted organs and tissues and that can be administered by the transplant patient.

"(3) TRANSPLANT CENTER.—The term 'transplant center' means a transplant center that is a member of the Organ Procurement and Transplantation Network established under section 372.

42 USC 300y-22.

"SEC. 1932. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of making allotments to States to carry out this part, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990.

42 USC 300y-23.

"SEC. 1933. ALLOTMENTS.

"(a) AMOUNT.—

State and local governments.

"(1) IN GENERAL.—From amounts appropriated under section 1932 for each of the fiscal years 1988 through 1990, the Secretary shall allot to each State an amount that bears the same ratio to the total amount appropriated under such section for such fiscal year as the total number of eligible patients in the State bears to the total number of eligible patients in the United States.

"(2) MINIMUM ALLOTMENT.—Notwithstanding paragraph (1), the allotment of any State in any fiscal year under this subsection shall not be less than $50,000. If, under paragraph (1), the allotment of any State in any fiscal year will be less than $50,000, the Secretary shall increase the allotment of such State to $50,000 and shall proportionately reduce the allotments of all other States whose allotment exceeds $50,000 in a manner that will insure that the allotment of each State in such fiscal year is at least $50,000.

"(b) UNALLOTTED FUNDS.—

"(1) IN GENERAL.—Subject to paragraph (2), to the extent that all the funds appropriated under section 1932 for a fiscal year

and available for allotment in such fiscal year are not otherwise allotted to States because—

"(A) one or more States have not submitted an application or description of activities in accordance with section 1936 for such fiscal year;

"(B) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(C) some State allotments are offset or repaid under section 1906(b)(3) (as such section applies to this part pursuant to section 1936(d));

102 STAT. 3118

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for such fiscal year without regard to this subsection.

"(2) ORGAN TRANSPLANT CENTERS.—

"(A) APPLICATION.—If a State does not submit an application for an allotment or description of activities in accordance with section 1936 for a fiscal year or notifies the Secretary that the State does not intend to use the full amount of the allotment of the State, an organ transplant center in the State may submit an application in accordance with section 1936 for the amount of the allotment not allocated to the State.

"(B) ALLOTMENT.—Subject to subparagraph (C), if an applicant center complies with the requirements imposed on the State by this part, the Secretary shall provide to the center the amount of the allotment not allocated to the State.

"(C) MULTIPLE APPLICANTS.—If two or more applicant centers in a State meet the requirements of subparagraph (B), the Secretary shall divide among the eligible applicant centers in an equitable manner the amount of the allotment not allocated to the State.

"(D) DISTRIBUTION TO OTHER STATES.—If one or more centers in a State receive an allotment under this paragraph for a fiscal year, the allotment shall not be made available to remaining States under paragraph (1).

"SEC. 1934. PAYMENTS UNDER ALLOTMENTS TO STATES.

42 USC 300y-24.

"(a) IN GENERAL.—For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotments under section 1933 from amounts appropriated for that fiscal year.

"(b) CARRYOVER FUNDS.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

"SEC. 1935. USE OF ALLOTMENTS.

42 USC 300y-25.

"(a) IN GENERAL.—

"(1) USE.—Except as provided in subsections (b) and (c), amounts paid to a State under section 1934 from its allotment under section 1933 for any fiscal year shall be used by the State to provide immunosuppressive drug therapy for eligible patients.

"(2) METHODS.—A State may use amounts paid to the State under section 1934 from its allotment under section 1933 to provide immunosuppressive drug therapy for eligible patients—

"(A) by purchasing the drugs and biologicals for such therapy and distributing such drugs and biologicals to transplant centers or eligible patients;

"(B) by certifying that an individual is an eligible patient for purposes of this part and by reimbursing a transplant center for the costs of immunosuppressive drug therapy provided by such center to such individual;

"(C) by any other method prescribed by the Secretary by regulation (other than the method described in subsection (b)(1)).

102 STAT. 3119

"(3) COPAYMENTS.—A State may require an eligible patient to whom immunosuppressive drug therapy is provided with amounts paid to the State under this part to make copayments for part of the costs of such therapy, without regard to section 1916 of the Social Security Act (42 U.S.C. 1396o).

"(b) LIMITATIONS.—A State may not use amounts paid to it under section 1934 to—

"(1) make direct payments to organ transplant patients; or

"(2) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(c) ADMINISTRATIVE COSTS.—Not more than 10 percent of the total amount paid to any State under section 1934 from its allotment under section 1933 for any fiscal year may be used for administering the funds made available under section 1934. The State will pay from non-Federal sources the remaining costs of administering such funds.

42 USC 300y-26.

"SEC. 1936. APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS.

State and local governments.

"(a) APPLICATION REQUIRED.—In order to receive an allotment for a fiscal year under section 1933, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require. Each such application shall contain assurances that the State will meet the requirements of subsection (b).

"(b) REQUIREMENTS.—As part of the annual application required by subsection (a), the chief executive officer of each State shall—

"(1) certify that the State agrees to use the funds allotted to the State under section 1933 in accordance with the requirements of this part;

"(2) agrees to cooperate with Federal investigations undertaken in accordance with section 1907 (as such section applies to this part pursuant to subsection (d) of this section); and

"(3) certify that the State agrees that Federal funds made available under section 1934 for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the activities for which funds are provided under such section and will in no event supplant such State, local, and other non-Federal funds.

"(c) DESCRIPTION OF ACTIVITIES.—

"(1) IN GENERAL.—The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 1934 for the fiscal year for which the application is submitted, including information on the programs and activities to be supported.

"(2) PUBLIC COMMENT.—The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal.

"(3) REVISIONS.—The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this part. Any revision shall be subject to paragraph (2).

102 STAT. 3120

"(d) ADMINISTRATION.—Unless inconsistent with this part, section 1903(b), section 1906(a), paragraphs (1) through (5) of section 1906(b), and sections 1907, 1908, and 1909 shall apply to this part in the same manner as such provisions apply to part A of this title.

"(e) ADDITIONAL INFORMATION.—Each annual report submitted by a State to the Secretary under section 1906(a) (as such section applies to this part pursuant to subsection (d) of this section) with respect to its activities under this part shall contain—

"(1) a specification of the number of eligible patients in the State receiving immunosuppressive drug therapy with amounts paid to the State under this part;

"(2) a description of the amount of any copayment required by the State under section 1935(a)(3); and

"(3) a certification that amounts paid to the State under this part are being used in accordance with this part.

"SEC. 1937. TERMINATION DATE. 42 USC 300y-27.

"The amendments made under part D of this Act shall terminate effective January 1, 1991.".

(b) REPORT.— 42 USC 300y-21 note.

(1) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and transmit to the Congress a report concerning the impact of part D of title XIX of the Public Health Service Act (as added by section 407 of this title).

(2) CONTENTS.—The report shall contain—

(A) a description of the effect of the program established under such part on organ transplants in the United States;

(B) an analysis of the effects of such program on the costs of organ transplants and renal dialysis;

(C) an analysis of the extent to which amounts paid to States under such part are used for purposes other than the purposes specified by such part, including an analysis of the extent to which drugs and biologicals purchased with such amounts are provided to individuals who are not eligible patients under such part; and

(D) such recommendations as the Secretary considers appropriate, including recommendations as to whether financial assistance under such program should be continued during fiscal years after fiscal year 1990.

TITLE V—FOOD AND DRUG ADMINISTRATION

Food and Drug Administration Act of 1988.

SEC. 501. SHORT TITLE. 21 USC 301 note.

This title may be cited as the "Food and Drug Administration Act of 1988".

SEC. 502. FINDINGS. 21 USC 393 note.

Congress finds that—

(1) the public health has been effectively protected by the presence of the Food and Drug Administration during the last eighty years;

(2) the presence and importance of the Food and Drug Administration must be guaranteed; and

(3) the independence and integrity of the Food and Drug Administration need to be enhanced in order to ensure the continuing protection of the public health.

102 STAT. 3121

SEC. 503. ESTABLISHMENT OF ADMINISTRATION BY LAW.

(a) ESTABLISHMENT.—Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 903. FOOD AND DRUG ADMINISTRATION. 21 USC 393.

"(a) IN GENERAL.—There is established in the Department of Health and Human Services the Food and Drug Administration (hereinafter in this section referred to as the "Administration").

"(b) COMMISSIONER.—

"(1) APPOINTMENT.—There shall be in the Administration a Commissioner of Food and Drugs (hereinafter in this section referred to as the "Commissioner") who shall be appointed by the President by and with the advice and consent of the Senate. President of U.S.

"(2) GENERAL POWERS.—The Secretary, through the Commissioner, shall be responsible for—

"(A) providing overall direction to the Food and Drug Administration and establishing and implementing general policies respecting the management and operation of programs and activities of the Food and Drug Administration;

"(B) coordinating and overseeing the operation of all administrative entities within the Administration;

Research and development.

"(C) research relating to foods, drugs, cosmetics, and devices in carrying out this Act;

"(D) conducting educational and public information programs relating to the responsibilities of the Food and Drug Administration; and

"(E) performing such other functions as the Secretary may prescribe.

"(c) TECHNICAL AND SCIENTIFIC REVIEW GROUPS.—The Secretary through the Commissioner of Food and Drugs may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, establish such technical and scientific review groups as are needed to carry out the functions of the Administration, including functions under the Federal Food, Drug, and Cosmetic Act, and appoint and pay the members of such groups, except that officers and employees of the United States shall not receive additional compensation for service as members of such groups.".

(b) CONFORMING AMENDMENTS.—Title 5, United States Code, is amended—

(1) in section 5316, by striking out the item relating to the Commissioner of Food and Drugs, Department of Health and Human Services; and

(2) in section 5315, by adding at the end thereof the following new item:

"Commissioner of Food and Drugs, Department of Health and Human Services".

21 USC 393 note.

(c) EFFECTIVE DATE.—

102 STAT. 3122

(1) Except as provided in paragraph (2), the amendments made by this title shall take effect on the date of enactment of this Act.

(2) Section 903(b)(1) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section) shall apply to the appointments of Commissioners of Food and Drugs made after the date of enactment of this Act.

Health Professions Reauthorization Act of 1988.

TITLE VI—HEALTH PROFESSIONS REAUTHORIZATION ACT OF 1988

SEC. 601. SHORT TITLE; REFERENCE.

42 USC 201 note.

(a) SHORT TITLE.—This Act may be cited as the "Health Professions Reauthorization Act of 1988".

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 602. FEDERAL PROGRAM OF INSURED LOANS TO GRADUATE STUDENTS IN HEALTH PROFESSIONS SCHOOLS.

(a) ESTABLISHMENT OF ADDITIONAL CREDIT AUTHORITY.—Section 728(a) (42 U.S.C. 294a(a)) is amended in the first sentence by striking "and" after "1987;" and by inserting before the period the following:

"; $325,000,000 for fiscal year 1989; $375,000,000 for fiscal year 1990; and $400,000,000 for fiscal year 1991".

(b) EXTENSION OF PERIOD FOR INSURANCE OF NEW LOANS.—Section 728(a) (42 U.S.C. 294a(a)) is amended—

(1) by inserting before the period at the end of the second sentence the following: ", and if in any fiscal year no ceiling has been established, any difference carried over shall constitute the ceiling for making new loans and paying installments for such fiscal year."; and

(2) in the third sentence by striking "1991," and inserting "1994,".

(c) PROHIBITION AGAINST APPORTIONMENTS OF CREDIT AUTHORITY.—Section 728(a) (42 U.S.C. 294a(a)) is amended by adding at the end the following new sentence: "The total principal amount of Federal loan insurance available under this subsection shall be granted by the Secretary without regard to any apportionment for the purpose of chapter 15 of title 31, United States Code, and without regard to any similar limitation.".

(d) PRIORITY IN PROVISION OF INSURANCE.—Section 728(b) (42 U.S.C. 294a(b)) is amended by inserting "(1)" after the subsection designation and by adding at the end the following new paragraph:

"(2) In providing certificates of insurance under section 732 through comprehensive contracts, the Secretary shall give priority to eligible lenders that agree—

"(A) to make loans to students at interest rates below the rates prevailing, during the period involved, for loans covered by Federal loan insurance pursuant to this subpart; or

"(B) to make such loans under terms that are otherwise favorable to the student relative to the terms under which eligible lenders are generally making such loans during such period.". 102 STAT. 3123

(e) FREQUENCY OF COMPOUNDING OF INTEREST.—Section 731(a)(2)(D)) (42 U.S.C. 294d(a)(2)(D)) is amended by inserting "not more frequently than" after "compounded".

(f) DETERMINATION OF FINANCIAL NEED OF STUDENTS.—Section 731 (42 U.S.C. 294d) is amended by adding at the end the following new subsection:

"(e) With respect to any determination of the financial need of a student for a loan covered by Federal loan insurance under this subpart, this subpart may not be construed to limit the authority of any school to make such allowances for students with special circumstances as the school determines appropriate.".

(g) AUTHORITY FOR ASSIGNMENT OF LOANS WITH RESPECT TO SECONDARY MARKET.—Section 732(d) (42 U.S.C. 294e(d)) is amended by striking "eligible lender, or" and inserting the following: "eligible lender (including a public entity in the business of purchasing student loans), or".

(h) CLARIFICATION WITH RESPECT TO REFERENCE TO HOLDERS OF FEDERALLY INSURED LOANS.—Section 733(d) (42 U.S.C. 294f(d)) is amended in the first sentence by inserting "eligible lender or" before "holder";

(i) AMOUNT OF LOSS PURSUANT TO DEFAULT.—Section 733(e)(2) (42 U.S.C. 294f(e)(2)) is amended by inserting before the semicolon the following: ", less the amount of any judgment collected pursuant to default proceedings commenced by the eligible lender or holder involved".

(j) CLARIFICATION WITH RESPECT TO EFFECT OF BANKRUPTCY.—Section 733(g) (42 U.S.C. 294f(g)) is amended by inserting "any chapter of" before "title 11,".

(k) PROVISIONS WITH RESPECT TO ACTIONS FOR DEFAULT.—

(1) Section 733(a) (42 U.S.C. 294f(a)) is amended by striking "(including, if appropriate, commencement of a suit)" and inserting the following: "(including, subject to subsection (h), commencement and prosecution of an action)".

(2) Section 733 (42 U.S.C. 294f) is amended—

102 STAT. 3126

SEC. 604. LOAN REPAYMENT PROGRAM FOR ALLIED HEALTH PERSONNEL.

Part C of title VII (42 U.S.C. 294 et seq.) is amended by inserting after subpart II the following new subpart:

"Subpart III—Loan Repayment Program for Allied Health Personnel

42 USC 294r.

"SEC. 751. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish a program of entering into agreements with allied health personnel and with allied health professions students under which such individuals agree, in consideration of the agreement described in subsection (b) (relating to loan repayment), to serve as an allied health professional for a period of not less than two years in an Indian Health Service health center, in a Native Hawaiian health center, in a rural health clinic, in a rural health facility that is a sole community provider, in any other rural hospital, in a rural home health agency, in a rural or urban hospital that serves a substantial number of patients pursuant to title XIX of the Social Security Act, in a private nursing facility 60 percent of whose patients are patients pursuant to title XIX of such Act, in a public nursing facility, in a migrant health center, in a community health center, or in a health facility determined by the Secretary to have a critical shortage of nurses.

"(b) PAYMENTS BY FEDERAL GOVERNMENT.—The agreement referred to in subsection (a) is an agreement, made by the Federal Government in consideration of the agreement described in paragraph (1) with respect to service as an allied health professional, under which the Federal Government agrees to pay—

"(1) for the first year of such service, 30 percent of the balance of the principal and interest of the educational loans of the individual;

"(2) for the second year of such service, 30 percent of such balance; and

"(3) for the third year of such service, 25 percent of such balance.

"(c) ADMINISTRATION.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with this section, apply to the program established in this section in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $2,000,000 for each of the fiscal years 1989 through 1991.".

SEC. 605. SCHOLARSHIPS FOR FIRST-YEAR STUDENTS OF EXCEPTIONAL FINANCIAL NEED.

(a) SCHOLARSHIPS FOR STUDENTS OF EXCEPTIONAL FINANCIAL NEED.—Section 758 (42 U.S.C. 294z) is amended—

(1) in subsection (a), by striking out "and who are in their first year of study at such school"; and

(2) in subsection (b)—

102 STAT. 3127

(A) in paragraph (1), by striking out "in their first year of study at such school";

(B) in paragraph (2)—

(i) by striking out "shall consist" and inserting in lieu thereof "may consist of all or part"; and

(ii) by inserting "not in excess" before "of $400" in subparagraph (B);

(C) in paragraph (5), by inserting "maximum allowable" before "monthly stipend"; and

(D) by striking out paragraph (6).

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 758(d) (42 U.S.C. 294z(d)) is amended by striking "and" after "1987," and inserting

before the period the following: ", $7,300,000 for fiscal year 1989, $30,000,000 for fiscal year 1990, and $30,000,000 for fiscal year 1991".

SEC. 606. CAPITATION GRANTS FOR SCHOOLS OF PUBLIC HEALTH.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 770(e) (42 U.S.C. 295f) is amended by striking "and" after "1987," and by inserting before the period the following: ", $4,700,000 for fiscal year 1989, and $3,000,000 for fiscal year 1990".

(b) SUNSET PROVISION.—Part E of title VII (42 U.S.C. 295f et seq.) is amended by adding at the end the following new section:

"SEC. 773. SUNSET PROVISION.

"Effective October 1, 1990, this part is repealed.". Effective date.

SEC. 607. AUTHORIZATION OF APPROPRIATIONS FOR PROJECT GRANTS FOR ESTABLISHMENT OF DEPARTMENTS OF FAMILY MEDICINE.

Section 780(d) (42 U.S.C. 295g(d)) is amended—

(1) by striking "There" and inserting "For the purpose of carrying out this section, there";

(2) by striking "and" after "1987," and inserting after "1988" the following: ", and $7,000,000 for each of the fiscal years 1989 through 1991"; and

(3) by striking "for payments under grants under subsection (a)".

SEC. 608. AREA HEALTH EDUCATION CENTERS.

(a) MINIMUM NUMBER OF INDIVIDUALS IN CERTAIN INTERNSHIPS.—Section 781(d)(2)(C) (42 U.S.C. 295g–1(d)(2)(C)) is amended by striking "six" and inserting "four".

(b) AUTHORIZATION OF APPROPRIATIONS FOR GENERAL PROGRAM OF AREA HEALTH EDUCATION CENTERS.—(1) Section 781(a) (42 U.S.C. 295g–1(a)) is amended by adding at the end of paragraph (2) the following new subparagraph:

"(C) In the case of the requirement that an area health education center be neither a school of medicine or osteopathy, the parent institution of such a school, nor a branch campus or other subunit of a school of medicine or osteopathy or its parent institution, or a consortium of such entities, to be eligible to enter into a contract under this section, the Secretary shall waive such requirement with respect to an area health education center having, at the time of initial application to enter into such contract under this section or a previous authorizing law, an operating program supported by both appropriations of a State legislature and local resources.". Contracts.

(2) Section 781(d)(2)(F) is amended by striking out "and nurse practitioners" and inserting in lieu thereof ", nurse practitioners, and nurse midwives".

102 STAT. 3128

(3) Section 781(h) (as redesignated by subsection (c)(1) of this section) is amended in the first sentence—

(A) by striking "There are authorized" and all that follows through "this section" and inserting the following: "For the purpose of carrying out this section other than subsection (f), there are authorized to be appropriated"; and

(B) by striking "and" after "1987," and inserting before the period the following: ", $18,700,000 for the fiscal year 1989, and $20,000,000 for each of the fiscal years 1990 and 1991".

(c) HEALTH EDUCATION AND TRAINING CENTERS.—Section 781 (42 U.S.C. 295g–1) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by adding after subsection (e) the following new subsection:

"(f)(1) The Secretary shall enter into contracts with schools of medicine and osteopathy for the purpose of planning, developing, establishing, maintaining, and operating health education and training centers— Contracts.

"(A) to improve the supply, distribution, quality, and efficiency of personnel providing (in the United States) health Mexico.

services along the border between the United States and Mexico;

Minorities.
Urban areas.
Rural areas.

"(B) to improve the supply, distribution, quality, and efficiency of personnel providing, in other urban and rural areas (including frontier areas) of the United States, health services to any population group, including Hispanic individuals, that has demonstrated serious unmet health care needs; and

"(C) to encourage health promotion and disease prevention through public education in the areas described.

"(2) The Secretary may not enter into a contract under paragraph (1) unless the applicant for such assistance agrees, in carrying out the purpose described in such paragraph, to enter into arrangements with one or more public or nonprofit private entities in the State that have expertise in providing health education to the public.

Mexico.

"(3) The Secretary shall, after consultation with health education and training centers, designate the geographic area in which each such center will carry out the purpose described in paragraph (1). The service area of such a center shall be located entirely within the State in which the center is located. Each border health education and training center shall be located in a county (or other political subdivision) of the State in close proximity to the border between the United States and Mexico.

"(4) The Secretary may not enter into a contract under paragraph (1) unless the applicant for such assistance agrees—

"(A) to establish an advisory group comprised of health service providers, educators and consumers from the service area and of faculty from participating schools;

"(B) after consultation with such advisory group, to develop a plan for carrying out the purpose described in paragraph (1) in the service area;

"(C) to enter into contracts, as needed, with other institutions or entities to carry out such plan; and

"(D) to be responsible for the evaluation of the program.

"(5) The Secretary may not make a grant or enter into a contract under paragraph (1) unless the applicant for such assistance agrees—

102 STAT. 3129

"(A) to evaluate the specific service needs for health care personnel in the service area;

"(B) to assist in the planning, development, and conduct of training programs to meet the needs identified pursuant to subparagraph (A);

"(C) to conduct or support not less than one training and education program for physicians and one program for nurses for at least a portion of the clinical training of such students;

"(D) to conduct or support training in health education services, including training to prepare community health workers to implement health education programs in communities, health departments, health clinics, and public schools that are located in the service area;

"(E) to conduct or support continuing medical education programs for physicians and other health professionals (including allied health personnel) practicing in the service area;

"(F) to support health career educational opportunities designed to provide students residing in the service area with counseling, education, and training in the health professions;

Mexico.

"(G) with respect to border health education and training centers, to assist in coordinating its activities and programs carried out pursuant to paragraph (1)(A) with any similar programs and activities carried out in Mexico along the border between the United States and Mexico; and

"(H) to make available technical assistance in the service area in the aspects of health care organization, financing and delivery.

"(6) In carrying out this subsection, the Secretary shall ensure that—

"(A) not less than 75 percent of the total funds provided to a school or schools of medicine or osteopathy will be expended in

the development and operation of the health education and training center in the service area of such program;

"(B) to the maximum extent feasible, the school of medicine or osteopathy will obtain from nongovernmental sources the amount of the total operating funds for such program which are not provided by the Secretary;

"(C) no grant or contract shall provide funds solely for the planning or development of a health education and training center program for a period in excess of two years;

"(D) not more than 10 percent of the annual budget of each program may be utilized for the renovation and equipping of clinical teaching sites; and

"(E) no grant or contract shall provide funds to be used outside the United States except as the Secretary may prescribe for travel and communications purposes related to the conduct of a border health education and training center.

"(7) For purposes of this subsection:

"(A) The term 'border health education and training center' means an entity that is a recipient of a contract under paragraph (1) and that is carrying out (or will carry out) the purpose described in subparagraph (A) of such paragraph.

"(B) The term 'health education and training center' means an entity that is a recipient of a contract under paragraph (1).

"(C) The term 'service area' means, with respect to a health education and training center, the geographic area designated for the center under paragraph (3).

102 STAT. 3130

"(8)(A) Of the amounts appropriated pursuant to subsection (h)(2) for a fiscal year, the Secretary shall make available 50 percent for allocations each fiscal year for applications approved by the Secretary for border health education and training centers. The amount of the allocation for each such center shall be determined in accordance with subparagraph (B).

"(B) The amount of an allocation under subparagraph (A) for a fiscal year shall be determined in accordance with a formula prescribed by the Secretary, which formula shall be based—

"(i) with respect to the service area of the border health education and training center involved, on the low-income population, including Hispanic individuals, along the border between the United States and Mexico and the growth rate of such population;

"(ii) on the need of such population for additional personnel to provide health care services along such border; and

"(iii) on the most current information concerning mortality and morbidity and other indicators of health status for such population.".

(d) AUTHORIZATION OF APPROPRIATIONS FOR HEALTH EDUCATION AND TRAINING CENTERS.—Section 781(h) (as redesignated by subsection (c)(1) of this section) is amended by inserting "(1)" after the subsection designation and by adding at the end the following new paragraph:

42 USC 295g-1.

"(2) For the purpose of carrying out subsection (f), there are authorized to be appropriated $4,000,000 for fiscal year 1989, $8,000,000 for fiscal year 1990, and $12,000,000 for fiscal year 1991.".

SEC. 609. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR TRAINING, TRAINEESHIPS, AND FELLOWSHIPS IN GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS.

(a) COORDINATION CRITERIA.—Section 784(b) (42 U.S.C. 295g-4(b)) is amended by inserting before the period the following: ", and coordination of curriculum development and resident teaching activities with departments of family medicine where there is a department within the same school".

(b) AUTHORIZATIONS.—Section 784(c) (42 U.S.C. 295g-4(c)) is amended—

(1) by striking "There" and all that follows through "section" and inserting "For the purpose of carrying out this section, there are authorized to be appropriated"; and

(2) by striking "and" after "1987," and by inserting before the period the following: ", $23,000,000 for fiscal year 1989, $23,000,000 for fiscal year 1990, and $25,000,000 for fiscal year 1991".

SEC. 610. FAMILY MEDICINE AND GENERAL PRACTICE OF DENTISTRY.

(a) GENERAL PRACTICE OF DENTISTRY.—Part F of title VII (42 U.S.C. 295g et seq.) is amended—

42 USC 295g-6.

(1) in section 786—

(A) in the title, by striking "AND GENERAL PRACTICE OF DENTISTRY"; and

(B) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and

(2) by inserting after section 784 the following new section:

102 STAT. 3131

42 USC 295g-5.

"SEC. 785. RESIDENCY PROGRAMS IN GENERAL PRACTICE OF DENTISTRY.

Grants. Contracts.

"(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, any public or nonprofit private school of dentistry or accredited postgraduate dental training institution—

"(1) to plan, develop, and operate an approved residency program in the general practice of dentistry or an approved advanced educational program in the general practice of dentistry; and

"(2) to provide financial assistance (in the form of traineeships and fellowships) to participants in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentistry.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $4,000,000 for fiscal year 1989, $6,000,000 for fiscal year 1990, and $8,000,000 for fiscal year 1991.".

(b) AUTHORIZATION OF APPROPRIATIONS FOR FAMILY MEDICINE.—

42 USC 295g-6.

Section 786(c) (as redesignated by subsection (a)(1)(B) of this section) is amended to read as follows:

"(c) For the purpose of carrying out this section, there are authorized to be appropriated $37,900,000 for fiscal year 1989, $40,000,000 for fiscal year 1990, and $40,000,000 for fiscal year 1991.".

Schools and colleges.

SEC. 611. EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

(a) AUTHORITY FOR STIPENDS FOR ADDITIONAL CATEGORIES OF STUDENTS.—Section 787(a)(2) (42 U.S.C. 295g-7(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(3) by inserting after subparagraph (F) the following new paragraph:

"(G) paying such stipends as the Secretary may approve for such individuals for any period of education at any school described in subsection (a)(1), except schools of medicine, osteopathy, or dentistry.".

(b) INCREASED ENROLLMENTS.—Section 787 (42 U.S.C. 295g-7) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by adding after subsection (a) the following:

"(b)(1) Schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, podiatry, and public and nonprofit schools that offer graduate programs in clinical psychology that receive a grant under subsection (a) shall, during a period of 3 years commencing on the date of the award of the grant, increase their first year enrollments of

individuals from disadvantaged backgrounds by at least 20 percent over enrollments in the base year 1987.

"(2) The Secretary shall give priority for funding, in years subsequent to the expiration of the 3-year period described in paragraph (1)—

"(A) to schools that attain such increase in their first year enrollment by the end of such 3-year period, and

"(B) to schools that attain a 20 percent increase over such base year enrollment.

"(3) The requirement for at least a 20 percent increase in such enrollment shall apply only to those schools referred to in paragraph (1) that have a total enrollment of such individuals from disadvantaged backgrounds that is less than 200 percent of the national average total enrollment of such individuals in all schools of each health professions discipline.

"(4) Determination of both first year and total enrollment of such individuals shall be made by the Secretary in accordance with section 708.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 787(c) (42 U.S.C. 295g–7(c)) (as so redesignated) is amended in the first sentence by striking "and" after "1987," and by inserting before the period the following: ", $31,200,000 for fiscal year 1989, $34,000,000 for fiscal year 1990, and $36,000,000 for fiscal year 1991".

(d) SET-ASIDES.—Section 787(c) (42 U.S.C. 295g–7(c)) (as so redesignated) is amended in the second sentence by striking "Not less" and all that follows through "fiscal year" and inserting the following: "Of the amounts appropriated under this section for any fiscal year, 10 percent shall be obligated for community-based programs and 70 percent".

(e) STIPENDS.—Section 787(c) (42 U.S.C. 295g–7(c)) (as so redesignated) is amended by adding at the end the following: "Such stipends shall be administered and awarded in the same manner and subject to the same regulations as scholarships under section 758.".

(f) REPORT.—Not later than September 30, 1991, the Secretary shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that develops a tracking system to evaluate— 42 USC 295g–7 note.

(1) the success of the programs established under section 787 of the Public Health Service Act in enhancing the professional education of individuals from disadvantaged backgrounds; and

(2) the gains experienced by institutions in the retention of students from disadvantaged backgrounds.".

SEC. 612. RETENTION PROGRAM FOR HEALTH PROFESSIONS SCHOOLS WITH INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

Part F of title VII is amended by inserting after section 787 (42 U.S.C. 295g–7) the following new section:

"SEC. 787A. RETENTION PROGRAM FOR HEALTH PROFESSIONS SCHOOLS WITH INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS. 42 USC 295g–7a.

"(a) ESTABLISHMENT.—The Secretary shall establish a supplemental grant program to award grants to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, or public health that demonstrate sufficient graduation of students from disadvantaged backgrounds. Grants.

"(b) PAYMENT FORMULA.—

"(1) IN GENERAL.—Payments to an eligible institution under this section shall be calculated in accordance with this subsection.

"(2) ELIGIBLE INSTITUTIONS.—An institution shall be eligible for funds under this section for a fiscal year in an amount determined under paragraph (5), if the disadvantaged graduate figure for the institution (as determined under paragraph (3))

102 STAT. 3133

exceeds the nondisadvantaged graduate figure for the institution (as determined under paragraph (4)).

"(3) DISADVANTAGED GRADUATE FIGURE.—For each fiscal year, the Secretary shall determine the disadvantaged graduate figure for the institution by dividing—

"(A) the number of students from disadvantaged backgrounds who graduated from the institution as part of such class; by

"(B) the number of students from disadvantaged backgrounds who matriculated into the institution as part of a class.

"(4) NONDISADVANTAGED GRADUATE FIGURE.—For each fiscal year, the Secretary shall determine the nondisadvantaged graduate figure for the institution by multiplying—

"(A) the quotient determined by dividing—

"(i) the number of students from nondisadvantaged backgrounds who graduated from the institution as part of such class; by

"(ii) the number of students from nondisadvantaged backgrounds who matriculated into the institution as part of a class; by

"(B) .9.

"(5) AMOUNT OF GRANT.—An institution determined to be eligible to receive a grant under this subsection shall be entitled to an amount determined by multiplying—

"(A) the quotient determined by dividing—

"(i) the total amount of funds made available to carry out this section during such preceding fiscal year; by

"(ii) the number of students from disadvantaged backgrounds who graduated from eligible institutions during the preceding fiscal year; by

"(B) the number of students from disadvantaged backgrounds who graduated from the eligible institution during such preceding fiscal year.

"(c) USE OF FUNDS.—Payment received by the institution under subsection (b) shall be used to provide—

"(1) financial aid services for individuals from disadvantaged backgrounds who choose to attend such institution;

"(2) retention services or for other retention purposes for individuals for disadvantaged backgrounds.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000 in each of the fiscal years 1990 and 1991.".

SEC. 613. TWO-YEAR SCHOOLS OF MEDICINE, INTERDISCIPLINARY TRAINING, AND CURRICULUM DEVELOPMENT.

(a) SPECIAL PROJECTS.—Section 788 (42 U.S.C. 295g–8(e)) is amended to read as follows:

"SEC. 788. SPECIAL PROJECTS.

"(a) TWO-YEAR SCHOOLS.—

Grants.

"(1) IN GENERAL.—The Secretary may make grants to maintain and improve schools that provide the first or last 2 years of education leading to the degree of doctor of medicine or osteopathy. Grants provided under this paragraph to schools that were in existence on September 30, 1985, may be used for construction and the purchase of equipment.

102 STAT. 3134

"(2) ELIGIBILITY.—To be eligible to apply for a grant under paragraph (1), the applicant must be a public or nonprofit school providing the first or last 2 years of education leading to the degree of doctor of medicine or osteopathy and be accredited by or be operated jointly with a school that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.

Schools and colleges.

"(b) FACULTY AND CURRICULUM DEVELOPMENT AND CLINICAL TRAINING SITES.—

"(1) GRANTS AND CONTRACTS.—

"(A) IN GENERAL.—The Secretary may make grants to and enter into contracts with any health professions institution or any other public or private nonprofit entity for the development and implementation of model projects in areas such as faculty and curriculum development, and development of new clinical training sites.

"(B) ALLOCATION OF FUNDS.—Priority shall be given to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, public health, chiropractic, allied health, and to graduate programs at public and nonprofit private schools in health administration and clinical psychology in the allocation of funds under this subsection. Funds shall be allocated to each profession for award within that profession on the basis of competitive applications. Investigator-initiated projects should be encouraged. Funding priorities may be determined by the Secretary on consultation with the health professions schools and the National Advisory Council on the Health Professions Education.

"(C) PEER REVIEW.—Any application for a grant to institutions described in subparagraph (A) shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts. The Secretary may not approve an application unless a peer review group has recommended it for approval.

"(2) HEALTH PROFESSIONS INSTITUTIONS AND ALLIED HEALTH INSTITUTIONS.—

"(A) SET-ASIDE.—At least 75 percent of the amounts available for grants and contracts under this subsection from amounts appropriated under subsection (e) shall be obligated for grants to and contracts with health professions institutions and allied health institutions.

"(B) PEER REVIEW.—Any application for a grant to institutions described in subparagraph (A) shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts.

"(C) PREREQUISITES.—The Secretary may not approve or disapprove an application for a grant to an institution described in subparagraph (A) unless the appropriate peer review group required under subparagraph (B) has recommended such approval and the Secretary has consulted with the National Advisory Council on Health Professions Education with respect to such application.

"(c) TRAINING IN PREVENTIVE MEDICINE.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, and public health to meet the costs of projects— Grants. Contracts.

102 STAT. 3135

"(A) to plan and develop new residency training programs and to maintain or improve existing residency training programs in preventive medicine; and

"(B) to provide financial assistance to residency trainees enrolled in such programs.

"(2) ADMINISTRATION.—

"(A) AMOUNT.—The amount of any grant under paragraph (1) shall be determined by the Secretary.

"(B) APPLICATION.—No grant may be made under paragraph (1) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. Regulations.

"(C) ELIGIBILITY.—To be eligible for a grant under paragraph (1), the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the fields of preventive medicine and support from other faculty members trained in public health and other relevant specialties and disciplines.

"(D) OTHER FUNDS.—Schools of medicine, osteopathy, and public health may use funds committed by State, local, or county public health officers as matching amounts for Federal grant funds for residency training programs in preventive medicine.

"(d) PROGRAMS FOR PHYSICIAN ASSISTANTS.—

Grants.
Contracts.

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with public or nonprofit private schools of medicine and osteopathy and other public or nonprofit private entities to meet the costs of projects to plan, develop, and operate or maintain programs for the training of physician assistants (as defined in section 701(8)).

"(2) APPLICATIONS.—No grant or contract may be made under paragraph (1) unless the application therefor contains or is supported by assurances satisfactory to the Secretary that the school or entity receiving the grant or contract has appropriate mechanisms for placing graduates of the training program with respect to which the application is submitted in positions for which they have been trained.

"(e) CERTAIN PROJECTS WITH RESPECT TO HOSPITALS AND SCHOOLS OF PODIATRIC MEDICINE.—The Secretary may make grants to, and enter into contracts with, public and nonprofit private hospitals and schools of podiatric medicine for the purpose of planning and implementing projects in primary care training for podiatric physicians in approved or provisionally approved residency programs which shall provide financial assistance in the form of traineeships to residents who participate in such projects and who plan to specialize in primary care.

"(f) AUTHORIZATIONS.—(1)(A) For the purpose of carrying out subsections (a), (b), and (e), there are authorized to be appropriated $2,400,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, and $4,000,000 for fiscal year 1991.

"(B) Of the amounts appropriated pursuant to subparagraph (A) for each of the fiscal years 1989 through 1991, the Secretary shall make available 20 percent of such amounts to carry out subsection (a) and 25 percent of such amounts to carry out subsection (e).

102 STAT. 3136

"(2)(A) For the purpose of carrying out subsection (c), there are authorized to be appropriated $1,500,000 for fiscal year 1989, $2,500,000 for fiscal year 1990, and $4,000,000 for fiscal year 1991.

"(B) For the purpose of carrying out subsection (d), there are authorized to be appropriated $4,500,000 for fiscal year 1989, $5,200,000 for fiscal year 1990, and $5,400,000 for fiscal year 1991.".

SEC. 614. GRANTS FOR MINORITY EDUCATION.

42 USC 295g-8a, 295g-2.

(a) REORGANIZATION.—Section 778A (42 U.S.C. 295g-8a) is transferred to immediately after section 781 (42 U.S.C. 295g-1) and redesignated as section 782.

42 USC 295g-2.

(b) PERIOD OF GRANTS.—Subsection (b) of section 782 (as transferred and redesignated by subsection (a)) is amended by inserting after "(b)", the following new sentence: "The Secretary may award grants for periods not to exceed 3 years.".

(c) ELIGIBILITY.—Subsection (c) of section 782 (as transferred and redesignated by subsection (a)) is amended to read as follows:

"(c) Only health professions schools shall be eligible for a grant under this section, and to be eligible such schools must—

(1) be a school described in section 701(4); and

(2) have received a contract under section 788A for fiscal year 1987.".

SEC. 615. GERIATRIC PROGRAMS.

(a) GERIATRIC EDUCATION CENTERS AND GERIATRIC TRAINING.—Part F of title VII is amended by inserting after section 788B (42 U.S.C. 295g-8b) the following new section:

42 USC 295g-9.

"SEC. 789. GERIATRIC EDUCATION CENTERS AND GERIATRIC TRAINING.

"(a) GERIATRIC EDUCATION CENTERS.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with accredited health professions schools, including schools of allied health, referred to in section 701(4) or 701(10) and programs referred to in section 701(8) to assist in meeting the costs of such schools or programs of providing projects to— Grants. Contracts.

"(A) improve the training of health professionals in geriatrics;

"(B) develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;

"(C) expand and strengthen instruction in methods of such treatment;

"(D) support the training and retraining of faculty to provide such instruction;

"(E) support continuing education of health professionals and allied health professionals who provide such treatment; and

"(F) establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric medicine.

"(2) APPROVAL OF APPLICATIONS.—

"(A) PEER REVIEW.—Any application for a grant or contract under this subsection shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts.

102 STAT. 3137

"(B) PREREQUISITES.—The Secretary may not approve or disapprove an application for a grant or contract under this subsection unless the Secretary has received recommendations with respect to such application from the appropriate peer review group required under subparagraph (A) and has consulted with the National Advisory Council on Health Professions Education with respect to such application.

"(b) GERIATRIC TRAINING.—

"(1) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, schools of medicine, schools of osteopathy, teaching hospitals, and graduate medical education programs, for the purpose of providing support (including residencies, traineeships, and fellowships) for geriatric training projects to train physicians and dentists who plan to teach geriatric medicine or geriatric dentistry. Grants. Contracts.

"(2) REQUIREMENTS.—Each project for which a grant or contract is made under this subsection shall—

"(A) be staffed by full-time teaching physicians who have experience or training in geriatric medicine;

"(B) be staffed, or enter into an agreement with an institution staffed by full-time or part-time teaching dentists who have experience or training in geriatric dentistry;

"(C) be based in a graduate medical education program in internal medicine or family medicine, or in a department of geriatrics in existence as of December 1, 1987;

"(D) provide participants in the project with exposure to a population of elderly individuals;

"(E) provide training in geriatrics and exposure to the physical and mental disabilities of elderly individuals through a variety of service rotations, such as geriatric consultation services, acute care services, dental services, geriatric psychiatry units, day and home care programs, rehabilitation services, extended care facilities, geriatric ambulatory care and comprehensive evaluation units, and community care programs for elderly mentally retarded individuals; and

"(F) provide training in geriatrics through one or both of the training options described in subparagraphs (A) and (B) of paragraph (3).

"(3) TRAINING OPTIONS.—The training options referred to in subparagraph (F) of paragraph (2) shall be as follows:

"(A) A 1-year retraining program in geriatrics for—

"(i) physicians who are faculty members in departments of internal medicine, family medicine, gynecology, geriatrics, and psychiatry at schools of medicine and osteopathy; and

"(ii) dentists who are faculty members at schools of dentistry or at hospital departments of dentistry.

"(B) A 1-year or 2-year internal medicine or family medicine fellowship program providing emphasis in geriatrics, which shall be designed to provide training in clinical geriatrics and geriatrics research for—

"(i) physicians who have completed graduate medical education programs in internal medicine, family medicine, psychiatry, neurology, gynecology, or rehabilitation medicine; and

102 STAT. 3138

"(ii) dentists who have completed post-doctoral dental education programs.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) GRADUATE MEDICAL EDUCATION PROGRAM.—The term 'graduate medical education program' means a program sponsored by a school of medicine, a school of osteopathy, a hospital, or a public or private institution that—

"(i) offers postgraduate medical training in the specialties and subspecialties of medicine; and

"(ii) has been accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association through its Committee on Postdoctoral Training.

"(B) POST-DOCTORAL DENTAL EDUCATION PROGRAM.—The term 'post-doctoral dental education program' means a program sponsored by a school of dentistry, a hospital, or a public or private institution that—

"(i) offers post-doctoral training in the specialties of dentistry, advanced education in general dentistry, or a dental general practice residency; and

"(ii) has been accredited by the Commission on Dental Accreditation.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) GERIATRIC EDUCATION CENTERS.—For grants and contracts under subsection (a), there are authorized to be appropriated $7,000,000 for fiscal year 1989, $10,000,000 for fiscal year 1990, and $13,000,000 for fiscal year 1991.

"(2) GERIATRIC TRAINING.—For grants and contracts under subsection (b), there are authorized to be appropriated $7,000,000 for fiscal year 1989, $10,000,000 for fiscal year 1990, and $13,000,000 for fiscal year 1991.".

(b) CONFORMING AMENDMENTS.—Section 783 (42 U.S.C. 295g–3) is repealed.

SEC. 616. GENERAL PROVISIONS.

(a) MINIMUM AMOUNT OF GRANT FOR CERTAIN GRANTEES.—Section 790 (42 U.S.C. 295g–10) is amended—

(1) in paragraph (3), by striking "The amount" and inserting the following: "Except as provided in paragraph (4), the amount"; and

(2) by adding at the end the following new paragraph:

"(4) With respect to grants under any of sections 780, 784, 785, and 786 for fiscal year 1989 and subsequent fiscal years, if an entity has been a grantee under the section involved for two consecutive fiscal years and the Secretary approves an application under such section from the entity for any subsequent consecutive fiscal year, the amount of the grant for such fiscal year may not be less than an amount equal to 20 percent of the average of the amounts received under such section by the entity for the consecutively preceding fiscal years.".

(b) REQUIREMENT OF PEER REVIEW FOR CERTAIN PROGRAMS.—Section 790 (42 U.S.C. 295g–10), as amended by subsection (a) of this section, is further amended by adding at the end the following new paragraph:

"(5)(A) Each application for a grant under any of sections 784 through 786 shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the evaluation. Each application for a grant under section 780 may be submitted to such peer review group for such an evaluation. 102 STAT. 3139

"(B) The Secretary shall establish such peer review groups as may be necessary to carry out subparagraph (A). The Secretary shall make appointments to the peer review groups from among appropriately qualified persons who are not officers or employees of the United States.

"(C) With respect to applications referred to in subparagraph (A), a peer review group established pursuant to such subparagraph shall report its findings and recommendations to the Secretary. The Secretary may not approve such an application unless a peer review group has recommended the application for approval.

"(D) This paragraph shall be carried out by the Secretary, acting through the Administrator of the Health Resources and Services Administration.".

(c) CERTAIN PROVISIONS WITH RESPECT TO HISPANIC INDIVIDUALS AND OTHER MEMBERS OF MINORITY GROUPS.—

(1) Section 708(b)(2) (42 U.S.C. 292h(b)(2)) is amended by adding at the end the following new sentence: "Such studies shall include studies determining by specialty and geographic location the number of health professionals (including allied health professionals and health care administration personnel) who are members of minority groups, including Hispanics, and studies providing by specialty and geographic location evaluations and projections of the supply of, and requirements for, health professionals (including allied health professionals and health care administration personnel) to serve minority groups, including Hispanics.".

(2)(A) The Secretary of Health and Human Services shall conduct a study for the purpose of determining— 42 USC 292h note. Minorities.

(i)(I) the extent to which health care is being provided to Hispanic individuals in medically underserved areas by health care professionals who are unable to communicate with such individuals in the most appropriate language and cultural context; and

(II) whether the extent of the provision of health care to Hispanic individuals by such health care professionals is detrimental to the health of such individuals; and

(ii)(I) the extent to which Hispanic individuals in medically underserved areas rely on allied health personnel as the primary source of health care;

(II) whether the extent of such reliance is detrimental to the health of such individuals; and

(III) if the extent of such reliance is detrimental to such individuals, whether area health education center programs (as defined in section 781(g), as redesignated by section 608(c)(1) of this Act) can be utilized with respect to providing appropriate health care to such individuals.

(B) The Secretary of Health and Human Services shall, not later than 1 year after the date of the enactment of this Act, complete the study required in subparagraph (A) and submit to the Congress a report describing the findings made as a result of the study. Reports.

102 STAT. 3140

SEC. 617. SPECIAL PROJECTS.

Part F of title VII (42 U.S.C. 295f–2 et seq.) is amended by adding at the end the following new section:

42 USC 295g-11. "SEC. 790A. SPECIAL PROJECTS.

Contracts. "(a) GRANTS.—The Secretary may make grants to, and enter into contracts with, schools of public health for the costs of planning, developing, demonstrating, operating, and evaluating projects—

"(1) for preventive medicine;

"(2) for health promotion and disease prevention;

"(3) for increasing the enrollment in such schools of individuals from disadvantaged backgrounds (as determined in accordance with criteria established by the Secretary under section 787(a)); and

"(4) to improve access and quality in health care.

"(b) PROHIBITIONS.—The Secretary may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(c) LIMITATIONS.—The Secretary may make a grant under this subsection only—

"(1) pursuant to the issuance of solicitations for such grants; and

"(2) if the application for such a grant has been recommended for approval by an appropriate peer review group.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $1,500,000 for fiscal year 1989, $3,500,000 for fiscal year 1990, and $5,000,000 for fiscal year 1991.".

SEC. 618. GRANTS FOR GRADUATE PROGRAMS IN HEALTH ADMINISTRATION.

(a) MINIMUM NUMBER OF STUDENTS.—Section 791(c)(2)(A)(i) (42 U.S.C. 295h(c)(2)(A)(i)) is amended—

(1) by striking "25" and inserting "15"; and

(2) by striking "except that" and all that follows through "in such school year".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 791(d) (42 U.S.C. 295h(d)) is amended by striking "and" after "1987," and by inserting before the period the following: ", $1,420,000 for fiscal year 1989, $1,420,000 for fiscal year 1990, and $1,700,000 for fiscal year 1991".

SEC. 619. AUTHORIZATION OF APPROPRIATIONS FOR TRAINEESHIPS FOR STUDENTS IN OTHER GRADUATE PROGRAMS.

Section 791A(c) (42 U.S.C. 295h-1a(c)) is amended by striking "and" before "$500,000" and by inserting before the period the following: "; and $500,000 for each of the fiscal years 1989 through 1991".

102 STAT. 3141

SEC. 620. PROVISIONS WITH RESPECT TO GRADUATE PROGRAMS IN CLINICAL PSYCHOLOGY.

(a) DEFINITION OF GRADUATE PROGRAM IN CLINICAL PSYCHOLOGY.—

(1) Section 701(4) (42 U.S.C. 292a(4)) is amended by inserting at the end the following new sentence: "The term 'graduate program in clinical psychology' means an accredited graduate program in a public or nonprofit private institution in a State which provides training leading to a doctoral degree in clinical psychology or an equivalent degree.".

(2) Section 701 (42 U.S.C. 292a) is amended by striking paragraph (14).

(b) NATIONAL ADVISORY COUNCIL ON HEALTH PROFESSIONS EDUCATION.—Section 702(a) (42 U.S.C. 292b(a)) is amended—

(1) in the first sentence, by striking "twenty members appointed" and inserting "twenty-one members appointed"; and

(2) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "twelve" and inserting "thirteen"; and

(B) in subparagraph (A), by inserting before the semicolon the following: "and graduate programs in clinical psychology".

(c) DISCRIMINATION ON BASIS OF SEX.—Section 704 (42 U.S.C. 292d) is amended—

(1) in the first sentence, by inserting after "allied health personnel" the following: ", or graduate program in clinical psychology,"; and

(2) in the second sentence, by striking "school or training center" and inserting "school, training center, or graduate program".

SEC. 621. AUTHORIZATION OF APPROPRIATIONS FOR PUBLIC HEALTH TRAINEESHIPS.

Section 792(c) (42 U.S.C. 295h–1b(c)) is amended by striking "and" after "1987;" and by inserting before the period the following: "; $4,100,000 for fiscal year 1989; $4,200,000 for fiscal year 1990; and $4,300,000 for fiscal year 1991".

SEC. 622. TRAINING OF HEALTH PROFESSIONALS WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.

Section 788B is amended to read as follows:

"SEC. 788B. TRAINING WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME. 42 USC 295g–8b.

"(a) GRANTS.—The Secretary may make grants and enter into contracts to assist schools and academic health science centers in meeting the costs of projects— Contracts. Health care professionals.

"(1) to train the faculty of schools and graduate departments of medicine, nursing, osteopathy, dentistry, public health, psychology, and allied health to teach health professions students to provide for the health care needs of individuals with acquired immune deficiency syndrome;

"(2) with respect to improving clinical skills in the diagnosis, treatment, and prevention of such syndrome, to educate and train the health professionals and clinical staff of schools of medicine, osteopathy, and dentistry; and

102 STAT. 3142

"(3) to develop and disseminate curricula relating to the care and treatment of individuals with acquired immune deficiency syndrome.

"(b) PREFERENCE.—In making grants under subsection (a), the Secretary shall give preference to projects which will—

"(1) train, or result in the training of, health professionals who will provide treatment for minority individuals with acquired immune deficiency syndrome and other individuals who are at high risk of contracting such syndrome; and Minorities.

"(2) train, or result in the training of, minority health professionals and minority allied health professionals to provide treatment for individuals with acquired immune deficiency syndrome. Minorities.

"(c) APPLICATION.—No grant or contract may be made under subsection (a) unless an application is submitted to the Secretary in such form, at such time, and containing such information, as the Secretary may prescribe.

"(d) PEER REVIEW.—

"(1) IN GENERAL.—An application for a grant or contract under subsection (a) shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts.

"(2) LIMITATION.—The Secretary may not approve an application for a grant or contract under subsection (a) unless the

authorized activities under an application approved under subsection (d).

"(b) USE OF AMOUNTS.—

"(1) IN GENERAL.—Amounts provided under subsection (a) shall be used by the recipients to fund interdisciplinary training projects designed to—

"(A) use new and innovative methods to train health care practitioners to provide services in rural areas;

"(B) demonstrate and evaluate innovative interdisciplinary methods and models designed to provide access to cost-effective comprehensive health care;

"(C) deliver health care services to individuals residing in rural areas;

"(D) enhance the amount of relevant research conducted concerning health care issues in rural areas; and

"(E) increase the recruitment and retention of health care practitioners in rural areas and make rural practice a more attractive career choice for health care practitioners.

"(2) METHODS.—A recipient of funds under subsection (a) may use various methods in carrying out the projects described in paragraph (1), including—

"(A) the distribution of stipends to students of eligible applicants;

"(B) the establishment of a post-doctoral fellowship program;

"(C) the training of faculty in the economic and logistical problems confronting rural health care delivery systems; or

"(D) the purchase or rental of transportation and telecommunication equipment where the need for such equipment due to unique characteristics of the rural area is demonstrated by the recipient.

102 STAT. 3150

"(3) ADMINISTRATION.—

"(A) IN GENERAL.—An applicant shall not use more than 10 percent of the funds made available to such applicant under subsection (a) for administrative expenses.

"(B) TRAINING.—Not more than 10 percent of the individuals receiving training with funds made available to an applicant under subsection (a) shall be trained as doctors of medicine or doctors of osteopathy.

Schools and colleges.

"(c) ELIGIBLE APPLICANTS.—Applicants eligible to obtain funds under subsection (a) shall include local health departments, nonprofit organizations and public or nonprofit colleges, universities, or schools of, or programs that specialize in, nursing, psychology, social work, optometry, public health, dentistry, osteopathy, physicians assistants, pharmacy, podiatry, medicine, chiropractic, and allied health professions if such applicants submit applications approved by the Secretary under subsection (d). Applicants eligible to obtain funds under subsection (a) shall not include for-profit entities, either directly or through a subcontract or subgrant.

"(d) APPLICATIONS.—

"(1) SUBMISSION.—In order to receive a grant under subsection (a) an entity shall submit an application to the Secretary.

"(2) FORMS.—An application submitted under this subsection shall be in such form, be submitted by such date, and contain such information as the Secretary shall require.

"(3) REQUIREMENTS.—Applications submitted under this subsection shall—

"(A) be jointly submitted by at least two eligible applicants with the express purpose of assisting individuals in academic institutions in establishing long-term collaborative relationships with health care providers in rural areas;

"(B) designate a rural health care agency or agencies for clinical treatment or training, including hospitals, community health centers, migrant health centers, rural health clinics, community mental health centers, long-term care

facilities, facilities operated by the Indian Health Service or an Indian tribe or tribal organization or Indian organization under a contract with the Indian Health Service under the Indian Self-Determination Acts, or Native Hawaiian health centers; and

"(C) provide any additional information required by the Secretary.

"(e) STUDY.—

"(1) IN GENERAL.—The Secretary shall enter into a contract to conduct a study of manpower training needs in rural areas, with attention focused on the supply of health professionals and whether such supply is adequate to meet the demands for health care services in rural communities. Contracts.

"(2) CONTENTS.—

"(A) STATISTICS.—The study conducted under paragraph (1) shall include statistics and projections on—

"(i) the supply of health care practitioners in rural areas; and

"(ii) suggested methods of improving access to health care services in rural areas.

The study shall pay particular attention to the needs of the elderly in rural areas as well as the individuals in the rural areas who are not eligible for Medicare.

102 STAT. 3151

"(B) EVALUATION.—The study conducted under paragraph (1) shall evaluate existing models for health care training and service delivery and propose innovative alternative models to enhance the quality and availability of health care services in rural areas and to increase the retention of health professionals in rural areas.

"(3) HEALTH CARE TRAINING AND SERVICE DELIVERY MODELS.—The Secretary shall evaluate the effectiveness of the health care training and service delivery models developed with funds made available under this section and compare such models with programs designed to increase the availability of health care providers in rural areas, including the National Health Service Corps program authorized by subpart II of part D of the Public Health Service Act (42 U.S.C. 254d et seq.) and the area health education center program authorized under section 781 of such Act (42 U.S.C. 295g-1).

"(4) SUBMISSION TO CONGRESS.—Not later than 18 months after the date of the signing of the contract for the health care study under paragraph (1), the Secretary shall submit to the appropriate committees of the Congress a report that describes the results of the study conducted under paragraph (1). Reports.

"(f) PEER REVIEW.—

"(1) IN GENERAL.—Each application for a grant or contract under this section shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application.

"(2) ESTABLISHMENT.—The Secretary shall establish such peer review groups as may be necessary to carry out paragraph (1). The Secretary shall make appointments to the peer review groups from among appropriately qualified persons who are not officers or employees of the United States.

"(3) REPORT OF FINDINGS.—With respect to applications referred to in paragraph (1), a peer review group established pursuant to such subparagraph shall report its findings and recommendations to the Secretary. The Secretary may not approve such an application unless a peer review group has recommended the application for approval.

"(4) ADMINISTRATION.—This paragraph shall be carried out by the Secretary, acting through the Director of the Indian Health Service.

"(g) DEFINITION.—For the purposes of this section, the term 'rural area' includes a frontier area, which is an area in which the population density is less than 7 individuals per square mile.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, other than subsection (e), $5,000,000 for each of the fiscal years 1989, 1990, and 1991.

"(2) SUBSECTION (e).—There is authorized to be appropriated $1,000,000 for each of the fiscal years 1989, 1990, and 1991 to carry out subsection (e).".

(b) REPEAL.—Section 714 of the Indian Health Care Amendments of 1988 is repealed upon the date of the enactment of this Act.

SEC. 638. ADVANCEMENT OF HEALTH CARE SERVICES.

(a) IN GENERAL.—Of the amounts appropriated in each of the fiscal years 1989 through 1991 to carry out title VII of the Public
102 STAT. 3152 Health Service Act, the Secretary of Health and Human Services shall, for each such fiscal year, make available $500,000 for the purpose of advancing the health care services furnished by qualified hospitals. For purposes of this subsection, the term "qualified hospital" means a hospital located in a rural county that—

(1) is adjacent to three counties, one of which is a central county of a Metropolitan Statistical Area, and all of which are classified as urban;

(2) has a workforce of which at least 12.2 percent of such workers commute from the rural county to the central counties of the two immediately adjacent Metropolitan Statistical Areas (out-commuting), and the total in-commuting rate from the two immediately adjacent Metropolitan Statistical Areas to the rural county is at least 6.1 percent, so that when added to the out-commuting rate from the rural county the total in/out-commuting rate is at least 18 percent;

(3) is also impacted by a third Metropolitan Statistical Area with an out-commuting rate from the rural county to that Metropolitan Statistical Area that is at least .15 percent and the in-commuting rate from the Metropolitan Statistical Area to such rural county is at least .15 percent;

(4) has more than 73,500 residents but less than 74,000 residents according to the 1980 census; and

(5) that has a health-related labor pool that is competitively impacted by, in addition to the normal competitive pressures of an urban labor market, the location in one of the adjacent Metropolitan Statistical Areas of at least three large health-related facilities, each with more than 375 beds, including a State-owned medical school/hospital complex with more than 4,000 employees, and a large Veterans' Administration hospital with more than 400 beds.

(b) PRO RATA DETERMINATION.—In making available amounts for a fiscal year for purposes of subsection (a), the Secretary of Health and Human Services may not reduce the amounts available for each program authorized under title VII of the Public Health Service Act by more than the amount equal to the product of—

(1) the amounts appropriated, after the date of the enactment of this Act, for carrying out the program involved for the fiscal year; and

(2) a percentage equal to the quotient of—

(A) $500,000; divided by

(B) the amounts appropriated, after the date of the enactment of this Act, for carrying out such title VII.

42 USC 292h note.
State and local governments.
Territories, U.S.

SEC. 639. ASSESSMENTS OF HEALTH MANPOWER SHORTAGES.

(a) REQUEST FOR INFORMATION.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall contact the chief executive officer of each State, the Mayor of the District of Columbia, and the chief executive officer of the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and request that each such individual submit to the Secretary an assess-

ment of the greatest health manpower shortages by discipline of health care providers and by allopathic and osteopathic speciality, of such individuals State, District, Commonwealth, or Territory.

(b) REPORT.—The Secretary of Health and Human Services shall compile and analyze the information obtained under subsection (a) and prepare and submit, to the appropriate Committees of Congress, as part of the October 1, 1991, report required under section 708(d)(1) of the Public Health Service Act (42 U.S.C. 292h(d)(1)), a report comtaining such information and analysis.

102 STAT. 3153

TITLE VII—NURSING SHORTAGE REDUCTION AND EDUCATION EXTENSION ACT OF 1988

Nursing Shortage Reduction and Education Extension Act of 1988.

SEC. 700. SHORT TITLE.

42 USC 201.

(a) SHORT TITLE.—This title may be cited as the "Nursing Shortage Reduction and Education Extension Act of 1988".

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

Subtitle A—Special Projects

SEC. 701. SPECIAL PROJECT GRANTS AND CONTRACTS.

(a) TRANSFER OF PROGRAM FOR INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.—Part A of title VIII (42 U.S.C. 296k et seq.) is amended—

(1) by inserting after the heading for such part the following new heading:

"Subpart I—Special Projects in General",

(2) by striking section 820(a)(1), and

42 USC 296k.

(3) by adding at the end the following new subpart:

"Subpart II—Nursing Education Opportunities for Individuals From Disadvantaged Backgrounds

"SPECIAL PROJECTS

"SEC. 827. (a) The Secretary may make grants to public and nonprofit private schools of nursing and other public or nonprofit private entities, and enter into contracts with any public or private entity, to meet the costs of special projects to increase nursing education opportunities for individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary—

Schools and colleges.
42 USC 296r.

"(1) by identifying, recruiting, and selecting such individuals,

"(2) by facilitating the entry of such individuals into schools of nursing,

"(3) by providing counseling or other services designed to assist such individuals to complete successfully their nursing education,

"(4) by providing, for a period prior to the entry of such individuals into the regular course of education at a school of nursing, preliminary education designed to assist them to complete successfully such regular course of education,

102 STAT. 3154

"(5) by paying such stipends (including allowances for travel and dependents) as the Secretary may determine for such individuals for any period of nursing education,

"(6) by publicizing, especially to licensed vocational or practical nurses, existing sources of financial aid available to persons enrolled in schools of nursing or who are undertaking training necessary to qualify them to enroll in such schools, and

"(7) by providing training, information, or advice to the faculty of such schools with respect to encouraging such individuals to complete the programs of nursing education in which the individuals are enrolled.

"(b) No grant or contract may be made under this section unless an application therefor has been submitted to and approved by the Secretary. The Secretary may not approve or disapprove such an application except after consultation with the National Advisory Council on Nurse Education. Such an application shall provide for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section.

Reports.
Records.

"(c) For payments under grants and contracts under subsection (a), there are authorized to be appropriated $3,000,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, and $5,000,000 for fiscal year 1991.".

(b) STRIKING OF CERTAIN PROGRAMS.—Section 820(a) (42 U.S.C. 296k(a)) is amended—

(1) by striking paragraphs (3), (7), and (9), and

(2) by redesignating paragraphs (2), (4), (5), (6), and (8) as paragraphs (1) through (5), respectively.

(c) GERIATRIC TRAINING.—Section 820(a)(2) (as redesignated by subsection (b)(2) of this section) is amended to read as follows—

"(2) demonstrate, through geriatric health education centers and other entities, improved geriatric training in preventive care, acute care, and long-term care (including home health care and institutional care);".

(d) UPGRADING SKILLS.—Section 820(a) (42 U.S.C. 296k(a)) is amended—

(1) by amending paragraph (3) (as redesignated by subsection (b)(2) of this section) to read as follows:

Rural areas.

"(3)(A) increase the supply of adequately trained nursing personnel (including bilingual nursing personnel) to meet the health needs of rural areas; and

"(B) provide nursing education courses to rural areas through telecommunications via satellite;", and

(2) by amending paragraph (4) (as so redesignated) to read as follows:

"(4) provide training and education—

"(A) to upgrade the skills of licensed vocational or practical nurses, nursing assistants, and other paraprofessional nursing personnel with priority given to rapid transition programs toward achievement of professional nursing degrees; and

"(B) to develop curricula for the achievement of baccalaureate degrees in nursing by registered nurses and by individuals with baccalaureate degrees in other fields;".

(e) COORDINATION PROJECTS WITH RESPECT TO LOAN REPAYMENTS FOR SERVICE IN HEALTH FACILITIES.—Section 820(a) (42 U.S.C. 296k(a)) is amended by adding after paragraph (5) (as redesignated by subsection (b)(2) of this section) the following new paragraph:

102 STAT. 3155

"(6)(A) collect the names and addresses of health facilities willing to enter into agreements with nursing students and nursing personnel under which such individuals agree to serve as nurses in the health facilities in consideration of the health facilities agreeing to repay the principal and interest of the educational loans of such individuals;

"(B) collect data on the specific terms of such agreements offered by health facilities;

"(C) collect the names and addresses of nursing students identified pursuant to section 827(a), of other nursing students,

appropriate peer review group required under paragraph (1) has recommended such approval and the Secretary has consulted with the National Advisory Council on Health Professions Education with respect to such application.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subsection (a), such sums as may be necessary for each of the fiscal years 1989 through 1991.

"(f) DENTAL SCHOOLS.—

Grants.

"(1) IN GENERAL.—The Secretary may make grants to assist dental schools and programs described in section 788(e)(4)(B) with respect to oral health care to AIDS patients.

"(2) APPLICATION.—Each dental school or program described in section 788(e)(4)(B) may annually submit an application documenting the unreimbursed costs of oral health care provided to AIDS patients by that school or hospital during the prior year.

"(3) DISTRIBUTION.—The Secretary shall distribute the available funds among all eligible applicants, taking into account the number of AIDS patients served and the unreimbursed oral health care costs incurred by each institution as compared with the total number of patients served and costs incurred by all eligible applicants.

"(4) The Secretary shall not make a grant under this subsection if doing so would result in any reduction in State funding allocation for such purposes.

"(5) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there is authorized to be appropriated such sums as may be necessary in fiscal year 1990 and fiscal year 1991.".

SEC. 623. DEFINITIONS.

(a) SCHOOL OF ALLIED HEALTH.—Section 701(10) (42 U.S.C. 292a(10)) is amended—

102 STAT. 3143

(1) in the matter preceding subparagraph (A), by striking "university—" and inserting "university or hospital-based educational entity—"; and

(2) in subparagraph (B), by inserting before the semicolon the following: "(except that this subparagraph shall not apply to any hospital-based educational entity)".

(b) ALLIED HEALTH PROFESSIONALS.—Section 701(13)(C) (42 U.S.C. 292a(13)(C)) is amended—

(1) by striking out "an individual" and inserting in lieu thereof "a health professional";

(2) by striking out "or" before "a doctoral degree in clinical psychology"; and

(3) by inserting before the period the following: ", or a degree in social work or an equivalent degree".

SEC. 624. ALLIED HEALTH PROJECT GRANTS AND CONTRACTS.

Section 796 (42 U.S.C. 295h–5) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary shall make grants to and enter into contracts with eligible entities to assist them in meeting the costs of planning, developing, establishing, operating, and evaluating projects relating to:

"(1) Improving and strengthening the effectiveness of allied health administration, program directors, faculty, and clinical faculty.

"(2) Improving and expanding program enrollments in those professions in greatest demand and whose services are most needed by the elderly.

"(3) Interdisciplinary training programs that promote the effectiveness of allied health practitioners in geriatric assessment and the rehabilitation of the elderly.

Research and development.

"(4) Demonstration centers to emphasize innovative models to link allied health clinical practice, education, and research.

"(5) Adding and strengthening curriculum units in allied health programs to include knowledge and practice concerning prevention and health promotion, geriatrics, long-term care, home health and hospice care, and ethics.

"(6) The recruitment of individuals into allied health professions, including projects for—

Schools and colleges.

"(A) the identification and recruitment of highly qualified individuals, including the provision of educational and work experiences for recruits at the secondary and collegiate levels;

Minorities. Disadvantaged persons.

"(B) the identification and recruitment of minority and disadvantaged students, including the provision of remedial and tutorial services prior and subsequent to admission, the provision of work-study programs for secondary students, and recruitment activities directed toward primary school students; and

"(C) the coordination and improvement of recruitment efforts among official and voluntary agencies and institutions, including official departments of education, at the city, county, and State, or regional level.";

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

102 STAT. 3144

"(c) For purposes of subsection (a), the term 'eligible entities' means entities which are—

Schools and colleges.

"(1) schools, universities, or other educational entities which provide for allied health personnel education and training and which meet such standards as the Secretary may by regulation prescribe; or

"(2) other public or nonprofit private entities capable, as determined by the Secretary, of carrying out projects described in subsection (a).";

(3) by striking out subsection (d) and inserting in lieu thereof the following new subsection:

Appropriation authorization.

"(d) For the purpose of making payments under grants and contracts under subsection (a), there are authorized to be appropriated $2,000,000 for each of the fiscal years 1990 and 1991.".

SEC. 625. TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL.

Section 797 (42 U.S.C. 295h–6) is amended to read as follows:

"SEC. 797. TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL.

Contracts.

"(a) GRANTS.—The Secretary may make grants to and enter into contracts with training centers for allied health professions to meet the costs of projects designed to—

"(1) plan, develop, establish, expand, and operate doctoral programs for the advanced speciality training of allied health professionals who plan to teach and conduct research in an allied health training program; and

"(2) provide financial assistance in the form of traineeships or fellowships to doctoral students who are participants in any such program and who plan to teach and conduct research in an allied health discipline or to post doctoral students who are continuing specialized study and research in an allied health discipline.

"(b) LIMITATION.—The Secretary shall limit grants and contracts made or entered into under subsection (a) to those allied health fields or specialities as the Secretary shall, from time to time, determine to have—

"(1) the most significant national or regional shortages of practitioners;

"(2) insufficient numbers of qualified faculty in entry level or advanced educational programs; and

"(3) a significant role in the care and rehabilitation of patients and clients who are elderly or disabled.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of making payments under grants under subsection (a), there are authorized to be appropriated $2,000,000 for each of the fiscal years 1990 and 1991.

"(d) AVAILABILITY OF FUNDS.—Funds appropriated under this section for any fiscal year shall remain available until expended or through fiscal year 1991.".

SEC. 626. ALLIED HEALTH PROFESSIONS DATA.

Section 708 (42 U.S.C. 292h) is amended by adding at the end the following:

"(h)(1) In carrying out subsection (a), the Secretary may make
102 STAT. 3145 grants, or enter into contracts and cooperative agreements with, and provide technical assistance to, any nonprofit entity in order to establish a uniform allied health professions data reporting system to collect, compile, and analyze data on the allied health professions personnel.

"(2) In the first report under subsection (d) made 2 years after the date of enactment of this Act and in each biennial report thereafter, the Secretary include a description and analysis of data collected pursuant to paragraph (1).".

SEC. 627. COUNCIL ON GRADUATE MEDICAL EDUCATION.

Section 799 (42 U.S.C. 295i) is amended by adding at the end the following:

Appropriation authorization.

"(k) There is authorized to be appropriated $1,000,000 for each of the fiscal years 1989, 1990, and 1991 to carry out this section.".

SEC. 628. REFERENCES WITH RESPECT TO PODIATRIC MEDICINE.

Title VII (42 U.S.C. 292a et seq.) is amended—

42 USC 292a. (1) in section 701—

(A) in paragraph (4), by striking "'school of podiatry'" and inserting "'school of podiatric medicine'" and by striking "'doctor of podiatry'" and inserting "doctor of podiatric medicine"; and

(B) in paragraph 13(C), by striking "podiatry" and inserting "podiatric medicine";

42 USC 292b. (2) in section 702(a)(1)(A), by striking "podiatry," and inserting "podiatric medicine,";

42 USC 292d. (3) in section 704, in the first sentence, by striking "podiatry," and inserting "podiatric medicine,";

42 USC 293a. (4) in section 721—

(A) in subsection (c)(3), in subparagraphs (A) and (B), by striking "podiatry," each place it appears and inserting "podiatric medicine,";

(B) in subsection (d)(1)(A), by striking "podiatry," and inserting "podiatric medicine,"; and

(C) in subsection (f)—

(i) in paragraph (1), in the first sentence, by striking "podiatry," and inserting "podiatric medicine,"; and

(ii) in paragraph (3)(A), by striking "podiatry," and inserting "podiatric medicine,";

42 USC 294b. (5) in section 729(a), in the first and second sentences, by striking "podiatry," each place it appears and inserting "podiatric medicine,";

42 USC 294j. (6) in section 737(1), by striking "podiatry," and inserting "podiatric medicine,";

42 USC 294m. (7) in section 740—

(A) in subsection (a), by striking "podiatry," and inserting "podiatric medicine,";

(B) in subsection (b)(4), by striking "podiatry" and inserting "podiatric medicine"; and

(C) in subsection (c)—

(i) in paragraph (1), by striking "podiatry," and inserting "podiatric medicine,"; and

(ii) in paragraph (3)(C), by striking "podiatry," and inserting "podiatric medicine,";

(8) in section 741— 42 USC 294n.

(A) in subsection (b)(1), by striking "podiatry" and inserting "podiatric medicine";

102 STAT. 3146

(B) in subsection (f)(1)(A), by striking "podiatry" and inserting "podiatric medicine"; and

(C) in subsection (l)(4), by striking "podiatry," and inserting "podiatric medicine,";

(9) in section 758(a), by striking "podiatry," and inserting "podiatric medicine,"; 42 USC 294z.

(10) in section 787(a)(1), by striking "podiatry," and inserting "podiatric medicine,"; and 42 USC 295g-7.

(11) in section 788— 42 USC 295g-8.

(A) in subsection (c)(1), in the first sentence, by striking "podiatry," and inserting "podiatric medicine,"; and

(B) in subsection (f), by striking "podiatry" and inserting "podiatric medicine".

SEC. 629. REFERENCES WITH RESPECT TO OSTEOPATHIC MEDICINE. Schools and colleges.

(a) TECHNICAL AMENDMENTS TO TITLE III.—Title III (42 U.S.C. 241 et seq.) is amended—

(1) in section 327A(b)(1), by inserting "schools of osteopathic medicine," after "schools of medicine," and by inserting "professions" after "health";

(2) by striking "osteopathy" each place such term appears and inserting "osteopathic medicine"; and

(3) by striking "osteopaths" each place such term appears.

(b) TECHNICAL AMENDMENTS TO TITLE VII.—Title VII (42 U.S.C. 292a et seq.) is amended—

(1) by striking "school of osteopathy" and "schools of osteopathy" each place such terms appear and inserting "school of osteopathic medicine" and "schools of osteopathic medicine", respectively;

(2) by striking "school of medicine, osteopathy" and "schools of medicine, osteopathy" each place such terms appear and inserting "school of medicine, osteopathic medicine" and "schools of medicine, osteopathic medicine", respectively; and

(3) by striking "medical or osteopathic" each place it precedes "school", "student", or "clinical education" and by inserting "medical (M.D. and D.O.)".

SEC. 630. STUDY BY GENERAL ACCOUNTING OFFICE OF STATE PRACTICES IN ENDORSEMENT LICENSING OF FOREIGN PHYSICIANS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study for the purpose of determining the practices and policies of the States in licensing by endorsement physicians who are graduates of schools of medicine located in countries other than the United States. In carrying out the study, the Comptroller General shall—

(1) with respect to such licensing of such physicians—

(A) make a comparison with the practices and policies of the States in licensing by endorsement physicians who are graduates of American schools of medicine; and

(B) determine the merits of any additional requirements imposed on physicians who are graduates of medical schools of other countries, including a determination of the relative proficiency of such physicians and a determination of the relevancy of any requirement of producing additional information or records;

102 STAT. 3147

(2) determine whether the graduates of schools of medicine located in other countries are being discriminated against with respect to licensing by endorsement in the United States; and

(3) if such discrimination is occurring, determine the geographic areas in which the discrimination is occurring and the circumstances under which the discrimination is occurring.

(b) CONSULTATION WITH APPROPRIATELY QUALIFIED INDIVIDUALS.—In carrying out the study required in subsection (a), the Comptroller General of the United States shall consult with individuals with appropriate expertise.

Reports.

(c) TIME FOR COMPLETION.—Not later than 9 months after the date of the enactment of this Act, the Comptroller General of the United States shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

42 USC 295g-8 note.

SEC. 631. IDENTIFICATION AND NOTIFICATION OF POTENTIAL GRANTEES UNDER CERTAIN PROGRAMS.

The Secretary of Health and Human Services shall identify entities that would be appropriate applicants for grants under section 788(a) of the Public Health Service Act (42 U.S.C. 295g-8(a)) and shall notify such entities of such fact.

42 USC 241 note.

SEC. 632. RESEARCH WITH RESPECT TO HEALTH RESOURCES AND SERVICES ADMINISTRATION.

With respect to any program of research pursuant to the Public Health Service Act, any such program carried out in fiscal year 1987 by an agency other than the Health Resources and Services Administration (or appropriate to be carried out by such an agency) may not, for each of the fiscal years 1989 through 1991, be carried out by such Administration.

42 USC 295g-10a.

SEC. 633. REQUIREMENTS WITH RESPECT TO APPLICATION AND AWARD PROCESS FOR CERTAIN PROGRAMS.

(a) SEMIANNUAL GRANT SOLICITATIONS.—With respect to grants under any of sections 780, 784, 785, and 786 for fiscal year 1990 or subsequent fiscal years, the Secretary of Health and Human Services shall, not less than twice each fiscal year, issue solicitations for applications for such grants if amounts appropriated for such grants, and remaining unobligated at the end of the first solicitation period, are sufficient with respect to issuing a second solicitation.

(b) PRELIMINARY REVIEW FOR TECHNICAL SUFFICIENCY.—In reviewing applications for grants referred to in subsection (a), the Secretary shall—

(1) make a preliminary review of each such application in order to determine whether the application involved is sufficient with respect to the minimum technical requirements established by the Secretary for applications under the program involved; and

(2) if the Secretary determines pursuant to the preliminary review that any such application is not sufficient with respect to such requirements—

(A) prepare a statement explaining the insufficiencies of the application; and

102 STAT. 3148

(B) return the application, together with such statement, by a date that permits the applicant involved a sufficient period of time in which to prepare a timely second application for submission pursuant to the solicitation with respect to which the first application is being returned.

SEC. 634. ESTABLISHMENT OF LOAN REPAYMENT PROGRAM FOR RESEARCH AT NATIONAL INSTITUTES OF HEALTH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) IN GENERAL.—Part F of title IV is amended by inserting after section 487 the following new section:

42 USC 288-1.

"SEC. 487A. LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) IMPLEMENTATION OF PROGRAM.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of the Health Professions Reauthorization Act of 1988, the Secretary shall, subject to paragraph (2), establish and implement a program of entering into agreements with appropriately qualified health professionals under which such health professionals agree to conduct, as employees of the National Institutes of Health, research with respect to acquired immune deficiency syndrome in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(2) LIMITATION.—The Secretary may not enter in an agreement with a health professional pursuant to paragraph (1) unless such professional—

"(A) has a substantial amount of educational loans relative to income; and

"(B) was not employed at the National Institutes of Health during the 1-year period preceding the date of the enactment of the Health Professions Reauthorization Act of 1988.

"(b) APPLICATION.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with subsection (a) of this section, apply to the program established in such subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"(2) AVAILABILITY.—Amounts appropriated pursuant to paragraph (1) for a fiscal year shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.".

SEC. 635. NATIONAL RESEARCH SERVICE AWARDS WITH RESPECT TO TITLE VII PROGRAMS.

Section 487(d)(3) (42 U.S.C. 288) is amended by inserting after "made available", the first time such appears, the following: "to the Secretary, acting through the Administrator of the Health Resources and Services Administration,". 102 STAT. 3149

SEC. 636. CLARIFICATION WITH RESPECT TO APPLICABILITY OF CERTAIN FEDERAL REGULATIONS TO SECONDARY MARKETS FOR STUDENT LOANS.

Section 728(c) (42 U.S.C. 294a(c)) is amended by adding at the end the following new paragraph:

"(3) With respect to Federal regulations for lenders, this subpart may not be construed to preclude the applicability of such regulations to the Student Loan Marketing Association or to any other entity in the business of purchasing student loans, including such regulations with respect to applications, contracts, and due diligence.".

SEC. 637. HEALTH CARE FOR RURAL AREAS.

(a) HEALTH CARE FOR RURAL AREAS.—Title VII of the Public Health Service Act is amended by adding at the end thereof the following:

"PART I—HEALTH CARE FOR RURAL AREAS

"SEC. 799A. HEALTH CARE FOR RURAL AREAS. 42 USC 295j.

"(a) GRANTS.—The Secretary may make grants to, or enter into contracts with, any eligible applicant to help such applicant fund

and of nursing personnel, willing to enter into such agreements; and

"(D) coordinate and facilitate communications between health facilities and such individuals with respect to such agreements.".

(f) GERIATRIC HEALTH EDUCATION CENTERS.—Section 820 (42 U.S.C. 296k) is amended—

(1) by redesignating subsections (b) through (d) as subsections (e) through (g), respectively, and

(2) by adding after subsection (a) the following new subsection:

"(b)(1) The Secretary may make grants to, and enter into contracts with, accredited schools of nursing to assist in meeting the costs of such schools in providing projects—

"(A) to improve the training of nurses in geriatrics;

"(B) to develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;

"(C) to expand and strengthen instruction in methods of such treatment;

"(D) to support the training and retraining of faculty to provide such instruction;

"(E) to support continuing education of nurses who provide such treatment; and

"(F) to establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric health care.

"(2)(A) Any application for a grant or contract under this subsection shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts.

"(B) The Secretary may not approve or disapprove an application for a grant or contract under this subsection unless the Secretary has received recommendations with respect to such application from the appropriate peer review group required under paragraph (1) and has consulted with the Advisory Council on Nurses Education with respect to such application.

"(C) For the purpose of carrying out this subsection, the Secretary may obligate each fiscal year not more than $2,000,000 of the amounts made available for such purpose pursuant to subsection (g)(2).".

(g) INNOVATIVE HOSPITAL NURSING PRACTICE MODELS.—Section 820 (42 U.S.C. 296k), as amended by subsection (f) of this section, is further amended by inserting after subsection (b) the following new subsection:

"(c)(1) The Secretary may make grants to public and nonprofit private entities for the purpose of demonstrating innovative hospital nursing practice models designed to reduce vacancies in professional nursing positions and to make such positions a more attractive career choice. 102 STAT. 3156

"(2) The Secretary may not make a grant under paragraph (1) unless the applicant for the grant agrees that hospital nursing practice models demonstrated pursuant to such subsection will include initiatives—

"(A) to restructure the role of the professional nurse, through changes in the composition of hospital staffs and through innovative approaches for interaction between hospital administration and nursing personnel, in order to ensure that the particular expertise of such nurses is efficiently utilized and that such nurses are engaged in direct patient care during a larger proportion of their work time;

"(B) to test innovative wage structures for professional nurses in order to— Wages.

"(i) reduce vacancies in work shifts during unpopular work hours; and

"(ii) provide financial recognition based upon experience and education; and

"(C) to evaluate the effectiveness of providing benefits for professional nurses, such as pensions, sabbaticals, and payment of educational expenses, as a means of developing increased loyalty of such nurses to health care institutions and reducing turnover in nursing positions.".

(h) LONG-TERM CARE NURSING PRACTICE DEMONSTRATIONS.—Section 820 (42 U.S.C. 296k), as amended by subsection (g) of this section, is further amended by inserting after subsection (c) the following new subsection:

"(d)(1) The Secretary may make grants to public and nonprofit private entities accredited for the training of nurses for the purpose of—

"(A) demonstrating innovative nursing practice models for—

"(i) the provision of case-managed health care services (including adult day care) and health care services in the home; or

"(ii) the provision of health care services in long-term care facilities; or

"(B) developing projects to increase the exposure of nursing students to clinical practice in nursing home, home health, and gerontologic settings through collaboration between such accredited entities and entities that provide health care in such settings.

"(2) The Secretary may not make a grant under paragraph (1) unless the applicant for the grant agrees that models demonstrated pursuant to such paragraph will be designed—

"(A) to increase the recruitment and retention of nurses to provide nursing care for individuals needing long-term care; and

"(B) to improve nursing care in home health care settings and nursing homes.".

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 820(g) (as redesignated by subsection (b)(2) of this section) is amended to read as follows:

"(g)(1) For payments under grants and contracts under this section, there are authorized to be appropriated $13,000,000 for fiscal year 1989, $16,000,000 for fiscal year 1990, and $20,000,000 for fiscal year 1991.

102 STAT. 3157

"(2) Of the amounts appropriated pursuant to paragraph (1), the Secretary shall obligate not less than 20 percent to carry out subsection (a)(2) and subsection (b) (subject to subsection (b)(2)(C)), not less than 20 percent to carry out paragraph (3) of subsection (a), and not less than 10 percent to carry out paragraph (4) of such subsection. Of the amounts appropriated pursuant to paragraph (1) for fiscal year 1989, the Secretary shall obligate not less than 20 percent to carry out section 827.".

SEC. 702. ADVANCED NURSE EDUCATION.

Appropriation authorization.

Section 821(b) (42 U.S.C. 296l(b)) is amended to read as follows: "(b) For payments under grants and contracts under this section, there are authorized to be appropriated $13,000,000 for fiscal year 1989, $13,000,000 for fiscal year 1990, and $20,000,000 for fiscal year 1991.".

SEC. 703. NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS.

(a) REQUIRED NUMBER OF STUDENTS IN TRAINING PROGRAMS.—Section 822(a)(2)(B)(ii) (42 U.S.C. 296m(a)(2)(B)(ii)) is amended by striking "not less than eight students" and inserting "not less than six full-time equivalent students".

(b) COMMITMENT UNDER TRAINEESHIP PROGRAM TO SERVE IN CERTAIN AREAS OR FACILITIES.—Section 822(b)(3) (42 U.S.C. 296m(b)(3)) is amended by striking "332)" and all that follows and inserting the following: "332), in an Indian Health Service health center, in a Native Hawaiian health center, in a public health care facility, in a migrant health center (as defined in section 329(a)(1)), in a rural

health clinic (as defined in section 1861(aa)(2) of the Social Security Act), or in a community health center (as defined in section 330(a))".

(c) ASSURANCES OF COMPLIANCE WITH GUIDELINES.—Section 822(c) (42 U.S.C. 296m(c)) is amended—

(1) by inserting "under subsection (a) or (b)" after "operate a program"; and

(2) by striking "midwives unless this application" and inserting "midwives unless the application".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 822(d) (42 U.S.C. 296m(d)) is amended to read as follows:

"(d) For payments under grants and contracts under subsections (a) and (b), there are authorized to be appropriated $12,000,000 for fiscal year 1989, $17,000,000 for fiscal year 1990, and $21,000,000 for fiscal year 1991.".

SEC. 704. ENHANCEMENT OF QUALITY CARE.

(a) IN GENERAL.—Of the amounts appropriated for each of the fiscal years 1989 through 1991 to carry out titles VII and VIII of the Public Health Service Act, the Secretary of Health and Human Services shall, for each of such fiscal years, make available $650,000 for the purpose of enhancing the ability of a qualified hospital to provide high-quality inpatient services. For purposes of this subsection, the term "qualified hospital" means a hospital that, as of the date of the enactment of this Act, is the only general short-term acute care hospital located in a rural county that is adjacent to 7 counties, of which 1 such adjacent county is a county described in paragraph (8)(B) of section 1886(d) of the Act referred to in section 371(b)(1)(C) of the Public Health Service Act and, of the remaining 6 such adjacent counties, 5 such counties are (or are treated as) urban counties for purposes of such section 1886(d) and 1 such county is not (or is not treated as) an urban county for purposes of such section. 102 STAT. 3158

(b) PRO RATA DETERMINATION.—In making available amounts for a fiscal year for purposes of subsection (a), the Secretary of Health and Human Services may not reduce the amounts available for each program of titles VII and VIII of the Public Health Service Act by more than an amount equal to the product of—

(1) the amounts appropriated, after the date of the enactment of this Act, for carrying out the program involved for the fiscal year; and

(2) a percentage equal to the quotient of—

(A) $650,000; divided by

(B) the amounts appropriated, after the date of the enactment of this Act, for carrying out such titles VII and VIII.

SEC. 705. IMPROVING HEALTH CARE SERVICES.

(a) IN GENERAL.—Of the amounts appropriated for each of the fiscal years 1989 through 1991 to carry out titles VII and VIII of the Public Health Service Act, the Secretary of Health and Human Services shall, for each of such fiscal years, make available $210,000 for the purpose of improving the health care services furnished by a qualified hospital. For purposes of this subsection, the term "qualified hospital" means a hospital located in a rural county—

(1) that is adjacent to 6 counties, of which 3 adjacent counties are urban (2 of the urban counties being located in another State), and of which 2 of the adjacent rural counties are without hospital facilities,

(2) that is located within 7 miles of another urban county in a separate Metropolitan Statistical Area from the Metropolitan Statistical Area in which the urban counties adjacent to the rural counties are located,

(3) that has more than 17,500 residents but less than 17,550 residents according to the 1980 census,

(4) that has a workforce of which more than 39.5 percent of those reporting workplace commute to the adjacent urban counties to the 1980 census, and

(5) that has a health-related labor pool which is competitively impacted by, in addition to the normal competitive pressures of

"(d)(1)(A) For the purposes of subsections (a) and (c), there are authorized to be appropriated $13,000,000 for fiscal year 1989, $15,000,000 for fiscal year 1990, and $16,000,000 for fiscal year 1991.

"(B) Of the amounts made available pursuant to subparagraph (A), the Secretary shall make available not less than 25 percent to carry out subsection (c).

"(2) For the purposes of subsection (b), there is authorized to be appropriated $1,100,000 for each of the fiscal years 1989 through 1991.".

102 STAT. 3160

SEC. 712. NURSE ANESTHETISTS.

(a) TRAINEESHIPS AND OTHER PROGRAMS.—

(1) Section 831(a)(1) (42 U.S.C. 297-1(a)(1)) is amended to read as follows:

"(1) The Secretary may make grants to public or private nonprofit institutions to cover the costs of traineeships for licensed registered nurses to become nurse anesthetists and to cover the costs of projects to develop and operate programs for the education of nurse anesthetists. In order to be eligible for such a grant, the program of an institution must be accredited by an entity or entities designated by the Secretary of Education and must meet such requirements as the Secretary shall by regulation prescribe.". Grants. Regulations.

(2) Section 831(a)(2) (42 U.S.C. 297-1(a)(2)) is amended by amending the second sentence to read as follows: "Payments for traineeships shall be limited to such amounts as the Secretary determines to be necessary to cover the costs of tuition and fees and a stipend and allowances (including travel and subsistence expenses) for trainees.".

(b) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 831(c) (42 U.S.C. 297-1(c)) is amended to read as follows: "For the purpose of making grants under this section, there is authorized to be appropriated $1,800,000 for each of the fiscal years 1989 through 1991.".

SEC. 713. LOAN PROVISIONS.

(a) RULE OF CONSTRUCTION WITH RESPECT TO CERTAIN UNCOLLECTABLE LOANS.—Section 835(c)(1) (42 U.S.C. 297a(c)(1)) is amended by adding at the end the following new sentence: "With respect to the student loan fund established pursuant to such agreements, this subsection may not be construed to require such schools to reimburse such loan fund for loans that became uncollectable prior to 1983.".

(b) INCREASES WITH RESPECT TO ANNUAL AND AGGREGATE LOAN TOTALS.—Section 836(a) (42 U.S.C. 297b(a)) is amended—

(1) in the first sentence, by inserting before the period the following: ", except that for the final two academic years of the program involved, such total may not exceed $4,000"; and

(2) in the second sentence, by striking "$10,000" and inserting "$13,000".

(c) PREFERENCE CATEGORY OF EXCEPTIONAL FINANCIAL NEED.—Section 836(a) (42 U.S.C. 297b(a)) is amended in the third sentence by striking "practical nurses and" and inserting "practical nurses, to persons with exceptional financial need, and".

(d) REDUCTION OF ELIGIBILITY STANDARD OF NEED.—Section 836(b)(1)(C) (42 U.S.C. 297b(b)(1)(C)) is amended to read as follows: "(C) with respect to any student enrolling in the school after June 30, 1986, is of financial need (as defined in regulations issued by the Secretary).".

(e) DEFERRAL PERIOD FOR HALF-TIME PROFESSIONAL TRAINING.—Section 836(b)(2)(B) (42 U.S.C. 297b(b)(2)(B)) is amended—

(1) by striking "(up to five years)" and inserting "(up to ten years)"; and

(2) by inserting after "full-time" the following: "or half-time".

(f) REDUCTION IN INTEREST RATE.—Section 836(b)(5) (42 U.S.C. 297b(b)(5)) is amended by striking "6 per centum" and inserting "5 percent".

102 STAT. 3161

(g) STRIKING OF LOW-INCOME PROVISIONS WITH RESPECT TO LOAN REPAYMENT.—Section 836(j) (42 U.S.C. 297b(j)) is amended by adding "and" at the end of paragraph (2), by striking paragraph (3), and by redesignating paragraph (4) as paragraph (3).

(h) USE OF CERTAIN UNEXPENDED FUNDS FOR ALLOTMENTS.—

(1) Section 838(a)(3) (42 U.S.C. 297d(a)(3)) is amended—

(A) by inserting "(A)" after the paragraph designation; and

(B) by adding at the end the following new subparagraph:

"(B) With respect to funds available pursuant to subparagraph (A), any such funds returned to the Secretary and not allotted by the Secretary, during the period of availability specified in such subparagraph, shall be available to carry out section 843 and, for such purpose, shall remain available until expended.".

42 USC 297d note.

(2) Except as provided in Public Law 100-436, the amendment made by paragraph (1) shall take effect as if such amendment had been effective on September 30, 1988, and as if section 843 of the Public Health Service Act, as added by section 715 of this title, had been effective on such date.

(i) EXTENSION OF DATE CERTAIN FOR CAPITAL DISTRIBUTION.—Section 839 (42 U.S.C. 297e) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "1991" and inserting "1994"; and

(B) in paragraph (1), by striking "1991" and inserting "1994"; and

(2) in subsection (b), by striking "1991" each place it appears and inserting "1994".

SEC. 714. LOAN REPAYMENTS FOR SERVICE IN CERTAIN HEALTH FACILITIES.

(a) AGREEMENTS FOR LOAN REPAYMENTS.—Section 836(h)(1)(C) (42 U.S.C. 297b(h)(1)(C)) is amended to read as follows:

"(C) who enters into an agreement with the Secretary to serve as nurse for a period of not less than two years in an Indian Health Service health center, in a Native Hawaiian health center, in a public hospital, in a migrant health center, in a community health center, in a nursing facility, in a rural health clinic, or in a health facility determined by the Secretary to have a critical shortage of nurses;".

(b) PRIORITIES WITH RESPECT TO AGREEMENTS.—Section 836(h) (42 U.S.C. 297b(h)) is amended by adding at the end the following new paragraph:

"(5) In entering into agreements under paragraph (1), the Secretary shall give priority—

"(A) to applicants with the greatest financial need; and

"(B) to applicants that, with respect to health facilities described in such paragraph, agree to serve in such health facilities located in geographic areas with a shortage of and need for nurses, as determined by the Secretary.".

(c) DEFINITIONS.—Section 836(h) (42 U.S.C. 297b(h)), as amended by subsection (b) of this section, is further amended by adding at the end the following new paragraph:

"(6) For purposes of this subsection:

"(A) The term 'community health center' has the meaning given such term in section 330(a).

102 STAT. 3162

"(B) The term 'migrant health center' has the meaning given such term in section 329(a)(1).

"(C) The term 'nursing facility' has the meaning given such term in section 1919(a) of the Social Security Act (as such section is in effect during fiscal year 1991 and subsequent fiscal years), except that for fiscal years 1989 and 1990, such term means an intermediate care facility and a skilled nursing facility, as such terms are defined in subsections (c) and (i), respectively, of section 1905 of the Social Security Act.

SEC. 716. ESTABLISHMENT OF DEMONSTRATION PROGRAM FOR STUDENT LOANS WITH RESPECT TO SERVICE IN CERTAIN HEALTH CARE FACILITIES IN UNDERSERVED AREAS.

Part B of title VIII (42 U.S.C. 297 et seq.), as amended by section 715 of this title, is further amended by adding at the end the following new subpart:

"Subpart IV—Demonstration Program For Student Loans With Respect to Service in Certain Health Care Facilities in Underserved Areas

42 USC 297.

"SEC. 847. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—The Secretary may, subject to subsections (c) and (d), make loans to individuals to assist the individuals in attending schools of nursing if the individuals enter into contracts with health facilities to engage, in consideration of the agreements made pursuant to subsection (d) (relating to loan repayments), in full-time employment as nurses for a period of time equal to not more than the period of time during which the individuals receive loan assistance under this section.

Contracts.
Disadvantaged persons.
Minorities.

"(b) PREFERENCES IN MAKING LOANS.—In making loans under subsection (a), the Secretary shall give preference to disadvantaged and minority individuals underrepresented in the nursing profession, as determined in accordance with criteria established by the Secretary.

"(c) CERTAIN REQUIREMENTS WITH RESPECT TO STUDENTS.—The Secretary may not make a loan under subsection (a) unless—

"(1) the applicant for the loan is enrolled (or accepted for enrollment) as a full-time student in a public or nonprofit school accredited for the training of professional nurses;

"(2) the applicant agrees to expend the loan only for the payment of the costs of tuition, reasonable living expenses, books, fees, and necessary transportation; and

"(3) the applicant agrees that, if the applicant is dismissed from the school for academic reasons, voluntarily terminates academic training as a nurse, or violates the contract entered into pursuant to subsection (a), the applicant will be liable to the United States in an amount equal to 100 percent of the principal and interest due on the loan.

102 STAT. 3164

"(d) CERTAIN REQUIREMENTS WITH RESPECT TO HEALTH CARE FACILITIES.—The Secretary may not make a loan under subsection (a) unless, with respect to contracts referred to in such subsection—

"(1) the applicant for the loan has entered into such a contract with a health care facility that is a nonprofit hospital or a long-term care facility certified under title XVIII or XIX of the Social Security Act;

"(2) such health care facility is located in a geographic area that is underserved with respect to the services of nurses, as designated pursuant to subsection (e);

"(3) the contract provides that the health care facility will repay 100 percent of the principal and interest of the loan made to the applicant under subsection (a);

"(4) the contract provides that, in serving as a nurse at the health care facility, the payments made by the facility on behalf of the applicant in repayment of the loan will be in addition to the pay that the applicant would otherwise receive for such service; and

"(5) the contract provides that, in the event the health care facility violates the contract, the facility will be liable to the United States in an amount equal to 100 percent of the principal and interest due on such loan.

Regulations.

"(e) DESIGNATION OF UNDERSERVED GEOGRAPHIC AREAS.—For purposes of subsection (d)(2), the Secretary shall through regulation establish criteria for the designation of such areas. The Secretary may, as appropriate, designate geographic areas using criteria in section 330(b)(4).

"(f) MAXIMUM AMOUNT OF LOAN.—The Secretary may not provide a loan under subsection (a) in an amount exceeding 100 percent of the costs described in subsection (c)(2).

"(g) INTEREST.—Loans awarded under this section shall bear interest on the unpaid balance of the loan at a rate of 5 percent per annum. Such interest shall accrue from the date the individual involved is no longer enrolled in the nursing program.

"(h) WAIVER OR SUSPENSION OF STUDENT OBLIGATIONS.—The Secretary shall by regulation provide for the waiver or suspension of any obligation of any individual receiving a loan under subsection (a) whenever compliance by the individual is impossible or would involve extreme hardship to the individual. Regulations.

"(i) REQUIREMENT OF APPLICATION.—The Secretary may not make a loan under subsection (a) unless—

"(1) an application for the loan is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the loan is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(j) SET-ASIDE WITH RESPECT TO RURAL AREAS.—Of the amounts appropriated for a fiscal year pursuant to subsection (l), the Secretary shall make available not less than 35 percent for loans under subsection (a) to individuals who will, pursuant to such loan, serve as nurses in rural areas designated under subsection (e) as geographic areas that are underserved with respect to the services of nurses. 102 STAT. 3165

"(k) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making loans under subsection (a), there is authorized to be appropriated $5,000,000 for the fiscal years 1989 through 1991.

"(l) SUNSET.—The authority to make loans under subsection (a) terminates September 30, 1991.".

Subtitle C—General Provisions of Title VIII

SEC. 721. NATIONAL ADVISORY COUNCIL ON NURSE TRAINING.

(a) IN GENERAL.—Section 851 (42 U.S.C. 298) is amended—

(1) in the section heading, by striking "NATIONAL ADVISORY COUNCIL ON NURSE TRAINING" and inserting in lieu thereof "ADVISORY COUNCIL ON NURSES EDUCATION"; and

(2) in subsection (a)—

(A) in the first sentence—

(i) by striking "National Advisory Council on Nurse Training" and inserting in lieu thereof "Advisory Council on Nurses Education"; and

(ii) by striking "nineteen" and inserting "twenty-one"; and

(B) in the second sentence, by striking "general public" and inserting the following: "general public, one of the appointed members shall be selected from practicing professional nurses, one of the appointed members shall be selected from among representatives of associate degree schools of nursing,".

(b) CONFORMING AMENDMENTS.—

(1) Section 820 (42 U.S.C. 296k) is amended—

(A) in subsection (e) (as redesignated by section 701(b)(2)), by striking "National Advisory Council on Nurse Training" and inserting "Advisory Council on Nurses Education"; and

(B) in subsection (f) (as so redesignated), in the second sentence, by striking "National Advisory Council on Nurse Training" and inserting "Advisory Council on Nurses Education".

(2) Section 856(1) (42 U.S.C. 298b-3(1)) is amended by striking "National Advisory Council on Nurse Training" and inserting "Advisory Council on Nurses Education".

SEC. 722. EVALUATIONS AND REPORTS.

Part C of title VIII (42 U.S.C. 298 et seq.) is amended by adding at the end the following new section:

"EVALUATIONS

42 USC 298b-6. Contracts.

"SEC. 859. (a) The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of projects carried out pursuant to this title and for the dissemination of information developed as result of such projects. Such evaluations shall include an evaluation of the effectiveness of such projects in increasing the recruitment and retention of nurses.

"(b)(1) The Secretary shall, not later than January 10, 1989, submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the manner in which the Secretary intends to carry out subsection (a).

102 STAT. 3166

"(2) The Secretary shall, not later than January 10, 1991, and biannually thereafter, submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report summarizing evaluations carried out pursuant to subsection (a) during the preceding two fiscal years.

"(c) Of the amounts appropriated each fiscal year to carry out this title, the Secretary shall make available one percent to carry out this section.".

Subtitle D—Waiver of Liability for Certain Sale of Facility Under Program of Construction and Modernization of Medical Facilities

SEC. 731. ESTABLISHMENT OF WAIVER AUTHORITY.

(a) IN GENERAL.—If, pursuant to subsection (b) of section 732, the Secretary of Health and Human Services makes a certification of compliance with the conditions described in subsection (a) of such section, section 609 of the Public Health Service Act (42 U.S.C. 291i) shall not, with respect to the transferor and transferee described in subsection (b), apply to the sale on November 26, 1986, of the medical facility—

Utah.

(1) located in Blanding, in the State of Utah;

(2) known, prior to such date, as San Juan County Nursing Home; and

(3) with respect to which funds were received during the years 1967 through 1970 pursuant to title VI of the Public Health Service Act (42 U.S.C. 291 et seq.).

(b) DESCRIPTION OF PARTIES TO SALE.—In the sale described in subsection (a), the transferor is San Juan County, a political subdivision of the State of Utah, and the transferee is Auburn Manor Holding Corporation, a corporation under the laws of the State of California.

SEC. 732. CONDITIONS OF WAIVER.

(a) IN GENERAL.—The conditions referred to in section 731(a) are that, not later than the expiration of the 12-month period beginning on the date of the enactment of this Act—

(1)(A) San Juan County establish an irrevocable trust with a res of $321,057 for the sole purpose of satisfying, with respect to the medical facility described in section 731(a), the obligation of San Juan County under regulations issued under clause (2) of

section 603(e) of the Public Health Service Act (42 U.S.C. 291c(e));

(B) except to the extent inconsistent with this title, San Juan establish such trust in accordance with regulations issued under section 609(d)(1)(A) of such Act for trusts established pursuant to such section; and

(C) San Juan County agree—

(i) except to the extent inconsistent with this title, to administer such trust in accordance with regulations issued under such section 609(d)(1)(A) of such Act; and

(ii) with respect to the obligation described in subparagraph (A)—

(I) to carry out such obligation at the medical facility known as San Juan County Hospital and located in Monticello, in the State of Utah;

(II) to ensure that uncompensated services provided at any location other than such medical facility will not be reimbursed from the trust established pursuant to subparagraph (A); and

(III) not to seek contribution from Auburn Corporation toward the satisfaction of such obligation; and

(2) Auburn Corporation agree—

(A) to satisfy, with respect to the medical facility described in section 731(a), the obligation of San Juan County under regulations issued under clause (1) of section 603(e) of the Public Health Service Act;

(B) to satisfy such obligation at the medical facility described in section 731(a); and

(C) not to seek contribution from San Juan County toward the satisfaction of such obligation.

(b) DETERMINATION AND CERTIFICATION OF SATISFACTION OF CONDITIONS.—The Secretary shall make a determination of whether the conditions described in subsection (a) are satisfied by San Juan County and Auburn Corporation within the period described in such subsection. If the Secretary makes a determination that the conditions have been satisfied, the Secretary shall certify to the Congress the fact of such determination.

SEC. 733. MONITORING OF COMPLIANCE WITH AGREEMENTS AND EFFECT OF FAILURE TO COMPLY.

(a) MONITORING.—The Secretary shall determine the extent to which San Juan County and Auburn Corporation are carrying out their respective duties under the agreements made pursuant to the conditions described in section 732(a).

(b) FAILURE TO COMPLY.—

(1) If the conditions described in section 732(a) are not satisfied by San Juan County and Auburn Corporation within the period described in such section, the Secretary shall ensure that proceedings under section 609 of the Public Health Service Act (42 U.S.C. 291i) with respect to the sale described in section 731(a) are commenced or continued against San Juan County or Auburn Corporation, or both, as determined by the Secretary.

(2) If San Juan County or Auburn Corporation fails to carry out its duties under the agreements made pursuant to the conditions described in section 732(a), the Secretary shall ensure that proceedings described in paragraph (1) are commenced or continued against San Juan County or Auburn Corporation, respectively.

SEC. 734. DEFINITIONS.

For purposes of this subtitle:

(1) The term "Auburn Corporation" means Auburn Manor Holding Corporation, a corporation under the laws of the State of California.

(2) The term "San Juan County" means San Juan County, a political subdivision of the State of Utah.

102 STAT. 3168

(3) The term "Secretary" means the Secretary of Health and Human Services.

TITLE VIII—REVISION AND EXTENSION OF PROGRAMS OF HEALTH CARE FOR THE HOMELESS

Subtitle A—Categorical Grants for Primary Health Services and Substance Abuse Services

SEC. 801. INCREASE IN REQUIRED AMOUNT OF MATCHING FUNDS AND MODIFICATION IN ELIGIBILITY FOR WAIVER WITH RESPECT TO MATCHING FUNDS.

(a) INCREASE IN REQUIRED AMOUNT.—Section 340(e)(1)(A) of the Public Health Service Act (42 U.S.C. 256(e)(1)(A)) is amended—

(1) in clause (i), by striking "under the grant; and" and inserting the following: "for the first fiscal year of payments under the grant and 66 2/3 percent of the costs of providing such services for any subsequent fiscal year of payments under the grant; and"; and

(2) in clause (ii), by striking "Federal funds" and all that follows and inserting the following: "Federal funds provided for the first fiscal year of payments under the grant and not less than $1 (in cash or in kind under such subparagraph) for each $2 of Federal funds provided for any subsequent fiscal year of payments under the grant.".

42 USC 256 note.

(b) EFFECTIVE DATE FOR INCREASE.—The amendments made by subsection (a) shall take effect October 1, 1989.

(c) MODIFICATION IN ELIGIBILITY FOR WAIVER.—Section 340(e)(2) of the Public Health Service Act (42 U.S.C. 256(e)(2)) is amended to read as follows:

"(2) The Secretary may waive the requirement established in paragraph (1)(A) if the applicant involved is a nonprofit private entity and the Secretary determines that it is not feasible for the applicant to comply with such requirement.".

SEC. 802. ESTABLISHMENT OF AUTHORITY FOR TEMPORARY CONTINUED PROVISION OF SERVICES TO CERTAIN FORMER HOMELESS INDIVIDUALS.

(a) IN GENERAL.—Section 340 of the Public Health Service Act (42 U.S.C. 256) is amended—

(1) by redesignating subsections (h) through (q) as subsections (i) through (r), respectively; and

(2) by adding after subsection (g) the following new subsection:

"(h) TEMPORARY CONTINUED PROVISION OF SERVICES TO CERTAIN FORMER HOMELESS INDIVIDUALS.—If any grantee under subsection (a) has provided services described in subsection (f) or (g) to a homeless individual, any such grantee may, notwithstanding that the individual is no longer homeless as a result of becoming a resident in permanent housing, expend the grant to continue to provide such services to the individual for not more than 12 months.".

102 STAT. 3169

(b) CONFORMING AMENDMENTS.—

(1) Section 340(d)(1) of the Public Health Service Act (42 U.S.C. 256(d)(1)) is amended—

(A) in subparagraph (C), by striking "(h)" and inserting "(i)";

(B) in subparagraph (D), by striking "(i)" and inserting "(j)";

(C) in subparagraph (E), by striking "(j)" and inserting "(k)"; and

(D) in subparagraph (F), by striking "(k)" and inserting "(l)".

(2) Section 332(a)(3) of the Public Health Service Act (42 U.S.C. 254e(a)(3)) is amended by striking "340(q)(2)" and inserting "340(r)".

(3) Section 536(1) of the Public Health Service Act (42 U.S.C. 290cc-36(1)) is amended by striking "340(q)(2)" and inserting "340(r)".

SEC. 803. CLARIFICATION WITH RESPECT TO CERTAIN PROVISIONS.

(a) DEFINITION OF HOMELESS INDIVIDUAL.—Section 340(r)(2) of the Public Health Service Act (as redesignated in section 802(a)(1) of this title) is amended by striking "living accommodations." and inserting "living accommodations and an individual who is a resident in transitional housing.". 42 USC 256.

(b) PROVISION OF TECHNICAL ASSISTANCE.—Section 340(o)(2) of the Public Health Service Act (as redesignated in section 802(a)(1) of this title) is amended by striking "(p)(1)," and inserting "(q)(1) for a fiscal year,".

SEC. 804. AUTHORIZATION OF APPROPRIATIONS.

Section 340(q)(1) of the Public Health Service Act (as redesignated in section 802(a)(1) of this title) is amended by striking "There are authorized" and all that follows and inserting the following: "There are authorized to be appropriated to carry out this section $61,200,000 for fiscal year 1989, $63,600,000 for fiscal year 1990, and $66,200,000 for fiscal year 1991.". 42 USC 256.

Subtitle B—Block Grant for Community Mental Health Services

SEC. 811. AUTHORIZATION OF APPROPRIATIONS AND CONTINGENT CONVERSIONS TO CATEGORICAL PROGRAM.

(a) IN GENERAL.—Section 535 of the Public Health Service Act (42 U.S.C. 290cc-35) is amended to read as follows:

"FUNDING

"SEC. 535. (a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, there are authorized to be appropriated $35,000,000 for each of the fiscal years 1989 and 1990 and such sums as may be necessary for fiscal year 1991.

"(b) EFFECT OF INSUFFICIENT APPROPRIATIONS FOR MINIMUM ALLOTMENTS.—

"(1) If the amounts made available pursuant to subsection (a) are insufficient for providing each State with an allotment under section 521(a) of not less than $150,000, the Secretary shall, from such amounts as are made available pursuant to such subsection, make grants to the States for providing to homeless individuals the mental health services described in section 524. 102 STAT. 3170

"(2) Paragraph (1) may not be construed to require the Secretary to make a grant under such paragraph to each State.".

(b) FAILURE OF STATE WITH RESPECT TO EXPENDING ALLOTMENT.—Section 529 of the Public Health Service Act (42 U.S.C. 290cc-29) is amended to read as follows:

"CONVERSION TO STATE CATEGORICAL PROGRAM IN EVENT OF FAILURE OF STATE WITH RESPECT TO EXPENDING ALLOTMENT

"SEC. 529. (a) IN GENERAL.—Subject to subsection (c), the Secretary shall, from amounts described in subsection (b), make grants to public and nonprofit private entities for the purpose of providing to homeless individuals the mental health services described in section 524. Grants.

"(b) DESCRIPTION OF FUNDS.—The amounts referred to in subsection (a) are any amounts made available in appropriations Acts for

allotments under section 521(a) that are not allotted under such section to a State as a result of—

"(1) the failure of the State to submit an application under section 522;

"(2) the failure, in the determination of the Secretary, of any State to prepare within a reasonable period of time such application in compliance with such section; or

"(3) the State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"(c) REQUIREMENT OF PROVISION OF SERVICES IN CERTAIN STATES.—With respect to grants under subsection (a), amounts made available pursuant to subsection (b) as a result of the State involved shall be available only for grants to provide services in such State.".

SEC. 812. ELIGIBILITY OF TERRITORIES.

(a) DEFINITION OF STATE.—Section 536(3) of the Public Health Service Act (42 U.S.C. 290cc-36(3)) is amended by striking "Columbia," and all that follows and inserting the following: "Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.".

(b) MINIMUM ALLOTMENT.—Section 528(a)(1) of the Public Health Service Act (42 U.S.C. 290cc-28(a)(1)) is amended to read as follows:

"(1) $275,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico and $50,000 for each of Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands; and".

SEC. 813. TECHNICAL AND CONFORMING AMENDMENTS.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended—

42 USC 290cc-2. (1) in section 521(a), by amending the first sentence to read as follows: "The Secretary shall for each of the fiscal years 1989 through 1991 make an allotment for each State in an amount determined in accordance with section 528.";

42 USC 290dd. (2) in section 541(a)(4), by striking "522" and inserting "543";

42 USC 290ee. (3) in section 545(d), by striking "526" and inserting "547"; and

102 STAT. 3171

42 USC 290ee-1. (4) in section 546(a)(4), by striking "521" and inserting "542".

Subtitle C—Authorization of Appropriations for Community Demonstration Projects

SEC. 821. MENTAL HEALTH SERVICES FOR HOMELESS INDIVIDUALS WITH CHRONIC MENTAL ILLNESS.

The first sentence of section 612(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended to read as follows: "For payments pursuant to section 504(f) of the Public Health Service Act, there are authorized to be appropriated $11,000,000 for fiscal year 1989, $11,500,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991, in addition to any other amounts authorized to be appropriated for such payments for each of such fiscal years.".

SEC. 822. ALCOHOL AND DRUG ABUSE TREATMENT OF HOMELESS INDIVIDUALS.

Section 513(b) of the Public Health Service Act (42 U.S.C. 290bb-2(b)) is amended to read as follows:

"(b) There are authorized to be appropriated to carry out section 512(c) $14,000,000 for fiscal year 1989, $17,000,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991.".

an urban labor market, the location in 1 of the adjacent urban counties (in another State) of several large health-related facilities, including that State's sole State-owned medical school/hospital complex with more than 5,500 employees, a large Veterans' Administration hospital with more than 1,000 beds, and a United States Army hospital with more than 350 beds.

(b) PRO RATA DETERMINATION.—In making available amounts for a fiscal year for purposes of subsection (a), the Secretary of Health and Human Services may not reduce the amounts available for each program of titles VII and VIII of the Public Health Service Act by more than an amount equal to the product of—

(1) the amounts appropriated, after the date of the enactment of this Act, for carrying out the program involved for the fiscal year; and

(2) a percentage equal to the quotient of—

(A) $210,000; divided by

(B) the amounts appropriated, after the date of the enact-

102 STAT. 3159

ment of this Act, for carrying out such titles VII and VIII.

Uniformed services.

SEC. 706. INCENTIVE SPECIAL PAY FOR PUBLIC HEALTH SERVICE NURSES.

Subsection (a) of section 208 (42 U.S.C. 210(a)) is amended by adding at the end the following new paragraph:

"(3) Commissioned nurse officers in the Regular and Reserve Corps shall, while in active duty, be paid incentive special pay in the same amounts as, and under the same terms and conditions which apply to, the incentive special pay now or hereafter paid to commissioned nurse officers of the Armed Forces under chapter 5 of title 37, United States Code.".

SEC. 707. EXTENSION OF PERIOD FOR INSURANCE OF NEW LOANS.

Section 728(a) (42 U.S.C. 294a(a)) is amended—

(1) by inserting before the period at the end of the second sentence the following: ", and if in any fiscal year no ceiling has been established, any difference carried over shall constitute the ceiling for making new loans (including loans to new borrowers) and paying installments for such fiscal year."; and

(2) in the third sentence by striking "1991," and inserting "1994,".

Subtitle B—Assistance to Nursing Students

SEC. 711. TRAINEESHIPS FOR ADVANCED EDUCATION OF PROFESSIONAL NURSES.

(a) TRAINEESHIPS FOR CERTAIN PART-TIME STUDENTS IN ADVANCED NURSING PROGRAMS.—Section 830 (42 U.S.C. 297) is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

Grants. Schools and colleges.

"(c)(1) The Secretary may make grants to public and nonprofit private schools of nursing to cover the costs of traineeships for students—

"(A) who are enrolled at least half-time in programs offering a masters degree in nursing; and

"(B) who agree to complete the requirements for degrees from such programs not later than the end of the academic year during which the student is to receive the traineeship.

"(2) In making grants under paragraph (1), the Secretary shall give special consideration to applications for traineeship programs that educate nursing students to serve in and prepare for practice as nurse practitioners, clinical specialists, or nurse midwives.".

(b) AUTHORIZATION OF APPROPRIATIONS FOR TRAINEESHIP PROGRAMS.—Section 830 (42 U.S.C. 297) is amended by amending subsection (d) (as redesignated by subsection (a) of this section) to read as follows:

"(D) The term 'rural health clinic' has the meaning given such term in section 1861(aa)(2) of the Social Security Act.".

(d) AUTHORIZATION OF APPROPRIATIONS FOR LOAN REPAYMENTS.—Subpart II of part B of title VIII (42 U.S.C. 297a et seq.) is amended by inserting after section 837 the following new section:

"AUTHORIZATION OF APPROPRIATIONS FOR LOAN REPAYMENTS FOR SERVICE IN CERTAIN HEALTH FACILITIES

"SEC. 837A. For the purpose of payments under agreements entered into under section 836(h), there is authorized to be appropriated $5,000,000 for each of the fiscal years 1989 through 1991.". 42 USC 297o–1.

SEC. 715. NURSING SCHOLARSHIPS.

Part B of title VIII (42 U.S.C. 297 et seq.) is amended by adding at the end the following new subpart:

"Subpart III—Scholarships

"UNDERGRADUATE EDUCATION OF PROFESSIONAL NURSES

"SEC. 843. (a) The Secretary may make grants to public and nonprofit private schools accredited for the training of professional nurses for the purpose of providing scholarships to individuals who are enrolled (or accepted for enrollment) as nursing students of such schools and who are in financial need with respect to attending such schools. Grants. 42 USC 297j.

"(b) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in providing scholarships pursuant to the grant, the applicant will give preference to individuals from disadvantaged backgrounds (as determined in accordance with criteria prescribed by the Secretary under section 844(a)).

"(c) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in providing scholarships pursuant to the grant, the applicant will provide a scholarship to an individual only if the individual agrees that, upon graduating from the program of nursing education offered by the applicant, the individual will serve as nurse for a period of not less than two years in an Indian Health Service health center, in a Native Hawaiian health center, in a public hospital, in a migrant health center, in a community health center, in a nursing facility, in a rural health clinic, or in a health facility determined by the Secretary to have a critical shortage of nurses.

"(d) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that a scholarship provided pursuant to such subsection for attendance at a school described in such subsection may not, for any year of such attendance for which the scholarship is made, provide an amount exceeding an amount 102 STAT. 3163 equal to the amount of the tuition and any fees for the year involved.

"(e) For purposes of this section:

"(1) The term 'community health center' has the meaning given such term in section 330(a).

"(2) The term 'migrant health center' has the meaning given such term in section 329(a)(1).

"(3) The term 'nursing facility' has the meaning given such term in section 1919(a) of the Social Security Act (as such section is in effect during fiscal year 1991 and subsequent fiscal years), except that for fiscal years 1989 and 1990, such term means an intermediate care facility and a skilled nursing facility, as such terms are defined in subsections (c) and (i), respectively, of section 1905 of the Social Security Act.

"(4) The term 'rural health clinic' has the meaning given such term in section 1861(aa)(2) of the Social Security Act.

"(f) For the purpose of making grants under this section, there are authorized to be appropriated $15,000,000 for fiscal year 1989 and $30,000,000 for each of the fiscal years 1990 and 1991.". Appropriation authorization.

Subtitle D—General Provisions

SEC. 831. EFFECTIVE DATES. 42 USC 256 note.

The amendments made by subsection (a) of section 801 shall take effect in accordance with subsection (b) of such section. The amendments otherwise made by this title shall take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

TITLE IX—TESTING OF CONVICTED FELONS

Prison Testing Act of 1988. AIDS.

SEC. 901. SHORT TITLE. 42 USC 300ee-6 note.

This title may be cited as the "Prison Testing Act of 1988".

SEC. 902. TESTING OF STATE PRISONERS. 42 USC 300ee-6.

State and local governments. Drugs and drug abuse.

(a) IN GENERAL.—To be eligible to receive funds under this section, the chief law enforcement officer of each State shall establish a State program to provide for the confidential testing of any individual convicted under State law, of an intravenous drug or sex offense on or after the date of enactment of this title.

(b) CONFIDENTIALITY.—

(1) IN GENERAL.—Except as otherwise provided, no person receiving identifying information regarding an individual tested pursuant to this section shall disclose or redisclose such information to any person.

(2) WAIVER.—The confidentiality of the testing required under subsection (a) shall be waived only so that—

102 STAT. 3172

(A) correctional personnel, as considered necessary under laws of the State or policies established by the State department of health, may have access to the information; and

(B) victims of rape may be informed of the result of the test, if the person convicted of the rape tests positive for exposure to the human immunodeficiency virus.

(c) MEDICAL TREATMENT OF DRUG AND SEX OFFENDERS.—The chief law enforcement officer of each State receiving funds under this section shall provide education and counseling through existing prison medical facilities to any individual tested for exposure to the human immunodeficiency virus established under subsection (a).

(d) FUNDING.—

(1) IN GENERAL.—The program established under subsection (a) shall be conducted in part using funds made available under this section.

(2) REQUIREMENT.—A State shall not receive funds under this section unless an application for such has been submitted to, and approved by, the Attorney General.

(3) CONTENTS.—An application submitted under paragraph (1) shall—

(A) be in such form and be submitted in such manner as the Attorney General may by regulation require; and

(B) contain—

(i) assurances by the chief executive officer of the State will provide, through existing medical facilities in State penal institutions, education and pre- and post-test counseling to any individual tested for exposure to the human immunodeficiency virus under this section;

(ii) a 50 percent cost share under subsection (a) by the State; and

(iii) such other information as the Attorney General may by regulation specify.

(e) DEFINITIONS.—As used in this section, the term "intravenous drug or sex offense" means—

(1) an offense that is punishable, under a State law relating to intravenous use of a controlled substance (other than a law relating to simple possession of a controlled substance), by imprisonment for a term exceeding one year;

(2) a State offense of the same type described under chapter 99 of title 18, United States Code, relating to rape; or

(3) a State criminal offense involving prostitution.

(f) REGULATIONS.—The Attorney General shall promulgate regulations to carry out this section, including regulations that determine the amount of funds that each State is entitled to receive under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1988 through 1990.

42 USC 300ee-6 note.

SEC. 903. STUDY BY ATTORNEY GENERAL.

Not later than 1 year after the date of enactment of this title, the Attorney General of the United States shall complete a study and submit a report to the appropriate Committees of Congress concerning the appropriateness or inappropriateness of mandated prison
102 STAT. 3173 sentences for any individual convicted of an intravenous drug or sex offense who thereafter knowingly places others at risk of becoming infected with the human immunodeficiency virus.

42 USC 300ee-6 note.

SEC. 904. EFFECTIVE DATE.

This title shall become effective 180 days after the date of enactment of this Act.

Approved November 4, 1988.

LEGISLATIVE HISTORY—S. 2889:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 13, considered and passed Senate and House.

102 STAT. 3224

Public Law 100-628
100th Congress

An Act

Nov. 7, 1988
[H.R. 4352]

To amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Stewart B. McKinney Homeless Assistance Amendments Act of 1988.
Disadvantaged persons.
42 USC 11301 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Stewart B. McKinney Homeless Assistance Amendments Act of 1988".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Budget compliance.
Sec. 102. Annual program summary by Comptroller General.

TITLE II—INTERAGENCY COUNCIL ON THE HOMELESS

Sec. 201. Preparation of bimonthly bulletin.
Sec. 202. Provision of professional and technical assistance.
Sec. 203. Establishment of program timetables.
Sec. 204. Authorization of appropriations.
Sec. 205. Extension of Interagency Council.
Sec. 206. Encouragement of State involvement.

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TITLE VII—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS

Subtitle A—Homeless Assistance Programs

Sec. 701. Adult education for the homeless.
Sec. 702. Education for homeless children and youth.
Sec. 703. Job training for the homeless.
Sec. 704. Emergency community services homeless grant program.
Sec. 705. Technical amendments to Older Americans Act of 1965.

Subtitle B—Job Training and Partnership Act

Sec. 711. Short title.
Sec. 712. Incentive bonus entitlement for employable dependent individuals.
Sec. 713. Provisions for improving assistance to hard-to-serve individuals and welfare recipients.
Sec. 714. Conforming and miscellaneous amendments.

TITLE VIII—VETERANS PROGRAMS

102 STAT. 3226 Sec. 801. Medical programs.

TITLE IX—AID TO FAMILIES WITH DEPENDENT CHILDREN; UNEMPLOYMENT COMPENSATION

Sec. 901. Extension of prohibition against implementation of certain proposed regulations.
Sec. 902. Review of policy governing use of AFDC funds to meet emergency needs of families eligible for AFDC through emergency assistance or special needs payments; report to Congress.
Sec. 903. Demonstration projects to reduce number of homeless AFDC families in welfare hotels.
Sec. 904. Preventing fraud and abuse in housing and urban development programs.

TITLE X—HOUSING AND COMMUNITY DEVELOPMENT TECHNICAL AMENDMENTS

Subtitle A—Housing Assistance

Sec. 1001. Income eligibility for assisted housing.
Sec. 1002. Public housing child care grants.
Sec. 1003. Public housing resident management.
Sec. 1004. Prohibition of reduction of section 8 contract rents.
Sec. 1005. Project-based section 8 assistance.
Sec. 1006. Section 8 assistance for residents of rental rehabilitation projects.
Sec. 1007. Rental rehabilitation program.
Sec. 1008. Tweemill House.
Sec. 1009. Housing counseling.
Sec. 1010. Multifamily housing management and preservation.
Sec. 1011. Multifamily housing capital improvements assistance.
Sec. 1012. Use of funds recaptured from refinancing State finance projects.
Sec. 1013. Public housing lease and grievance procedures.
Sec. 1014. Exceptions to tenant preference provisions.

Subtitle B—Preservation of Low Income Housing

Sec. 1021. Notice of intent.
Sec. 1022. Plan of action.
Sec. 1023. Incentives to extend low income use.
Sec. 1024. Criteria for approval of plan of action.
Sec. 1025. Modification of existing regulatory agreements.
Sec. 1026. Report on notice to tenants and incentives.
Sec. 1027. Definition of eligible low income housing.
Sec. 1028. Rural rental housing displacement prevention.
Sec. 1029. Section 8 loan management program.

Subtitle C—Rural Housing

Sec. 1041. Implementation of guaranteed loan demonstration.
Sec. 1042. Section 515 rents.
Sec. 1043. Availability of domestic farm labor housing for other families.
Sec. 1044. Rural rental rehabilitation demonstration.
Sec. 1045. Legal representation in litigation involving collection of claims and obligations arising out of rural housing programs.

Subtitle D—Mortgage Insurance and Secondary Mortgage Market Programs

Sec. 1061. Change in definition of veteran.
Sec. 1062. Limitation on use of single family mortgage insurance by investors.
Sec. 1063. Procedures applicable to assumption of insured mortgages.
Sec. 1064. Payment of claims on losses from preforeclosure sales.
Sec. 1065. Mortgage insurance on Hawaiian home lands.
Sec. 1066. Home equity conversion mortgage insurance demonstration.
Sec. 1067. Reciprocity in approval of housing subdivisions among Federal agencies.
Sec. 1068. Permanent authority to purchase second mortgages on multifamily properties.

Subtitle E—Community Development and Miscellaneous Programs

Sec. 1081. City and county classifications.
Sec. 1082. Corrections to cross-references.
Sec. 1083. Conserving neighborhoods and housing by prohibiting displacement.
Sec. 1084. Urban development action grants.
Sec. 1085. Neighborhood reinvestment corporation.
Sec. 1086. National flood insurance program.
Sec. 1087. Home mortgage disclosure.
Sec. 1088. Lead-based paint poisoning prevention.
Sec. 1089. Interstate land sales full disclosure.
Sec. 1090. Designation of enterprise zones.
Sec. 1091. Report on recommended policy for dealing with radon in assisted housing.

TITLE I—GENERAL PROVISIONS

SEC. 101. BUDGET COMPLIANCE.

42 USC 11303 note.

(a) IN GENERAL.—This Act and the amendments made by this Act may not be construed to provide for new budget authority, budget outlays, or new entitlement authority, for fiscal year 1989 or 1990 in excess of the appropriate aggregate levels established by the concurrent resolution on the budget for such fiscal year for the programs authorized by this Act and the amendments made by this Act.

(b) DEFINITIONS.—For purposes of this section, the terms "budget authority", "budget outlays", "concurrent resolution on the budget", and "entitlement authority" have the meanings given such terms in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622).

SEC. 102. ANNUAL PROGRAM SUMMARY BY COMPTROLLER GENERAL.

(a) IN GENERAL.—Section 105 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11304) is amended—

(1) by inserting "annually" after "shall"; and

(2) by striking "a report" and all that follows and inserting the following: "to the Congress an annual summary of the status of each program authorized under this Act.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading for section 105 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11304) is amended by striking "**AUDITS**" and inserting "**ANNUAL PROGRAM SUMMARY**".

(2) TABLE OF CONTENTS.—The item relating to section 105 in the table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 prec.) is amended to read as follows:

"Sec. 105. Annual program summary by Comptroller General.".

TITLE II—INTERAGENCY COUNCIL ON THE HOMELESS

SEC. 201. PREPARATION OF BIMONTHLY BULLETIN.

Section 203(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11313(a)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) prepare and distribute to States (including State contact persons), local governments, and other public and private nonprofit organizations, a bimonthly bulletin that describes the Federal resources available to them to assist the homeless, including current information regarding application deadlines and appropriate persons to contact in each Federal agency providing the resources.".

State and local governments.

102 STAT. 3228

SEC. 202. PROVISION OF PROFESSIONAL AND TECHNICAL ASSISTANCE.

Section 203(a)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11313(a)(4)) is amended—

(1) by striking ", through personnel employed by the Council in each of the 10 standard Federal regions," and inserting the following: "(by at least 2, but in no case more than 5, regional coordinators employed by the Council, each having responsibility for interaction and coordination of the activities of the Council within the 10 standard Federal regions)"; and

(2) by striking subparagraphs (A) and (B) and inserting the following:

"(A) interpret regulations and assist in the application process for Federal assistance, including grants;

"(B) provide assistance on the ways in which Federal programs, other than those authorized under this Act, may best be coordinated to complement the objectives of this Act;

"(C) develop recommendations and program ideas based on regional specific issues in serving the homeless population; and

"(D) establish a schedule for biennial regional workshops to be held by the Council in each of the 10 standard Federal regions to further carry out and provide the assistance described in subparagraphs (A), (B), and (C) and other appropriate assistance as necessary, of which—

"(i) not less than 5 such workshops shall be held by September 30, 1989; and

"(ii) at least 1 such workshop shall be held in each of the 10 Federal regions every 2 years, beginning on September 30, 1988;".

SEC. 203. ESTABLISHMENT OF PROGRAM TIMETABLES.

Section 203 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11313) is amended by adding at the end the following new subsection:

"(e) PROGRAM TIMETABLES.—Not later than 90 days after the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, the head of each Federal agency that is a member of the Council and responsible for administering a program under this Act shall provide to the Council a timetable regarding program funding availability and application deadlines. The Council shall furnish such information to each State (including the State contact person).".

State and local governments.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

Section 208 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11318) is amended to read as follows:

"SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $1,100,000 for fiscal year 1989 and $1,200,000 for fiscal year 1990.".

SEC. 205. EXTENSION OF INTERAGENCY COUNCIL.

Section 209 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11319) is amended by striking "upon the expiration of the 3-year period beginning on the date of the enactment of this Act" and inserting "on October 1, 1990".

102 STAT. 3229

SEC. 206. ENCOURAGEMENT OF STATE INVOLVEMENT.

(a) IN GENERAL.—Title II of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11311 et seq.) is amended by adding at the end the following new section:

42 USC 11320.

"SEC. 210. ENCOURAGEMENT OF STATE INVOLVEMENT.

"(a) STATE CONTACT PERSONS.—Each State shall designate an individual to serve as a State contact person for the purpose of receiving and disseminating information and communications re-

ceived from the Council, including the bimonthly bulletin described in section 203(a)(7).

"(b) STATE INTERAGENCY COUNCILS AND LEAD AGENCIES.—Each State is encouraged to establish a State interagency council on the homeless or designate a lead agency for the State for the purpose of assuming primary responsibility for coordinating and interacting with the Council and State and local agencies as necessary.".

(b) CONFORMING AMENDMENT.—The table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 prec.) is amended by inserting after the item relating to section 209 the following new item:

"Sec. 210. Encouragement of State involvement.".

TITLE III—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

SEC. 301. REPORT ON EMERGENCY FOOD AND SHELTER GRANT PROGRAM.

Not later than 6 months after the date of the enactment of this Act, the Director of the Federal Emergency Management Agency shall submit a report to the appropriate committees of the Congress on the emergency food and shelter grant program administered under subtitle B of title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11341 et seq.). The report shall include—

(1) proposed legislation for a minimum of 2 alternative statutory formulas incorporating the criteria on which the distribution and disbursement of such grants is based, including utilization of data that reflect the number of long-term unemployed workers in the States involved (including those whose unemployment benefits have run out and those who have been out of work so long they are no longer actively seeking employment); and

(2) supporting evidence for each alternative formula and criteria that explains how each formula would be effective in targeting such grants to the areas in the Nation that have the greatest need.

SEC. 302. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $129,000,000 for fiscal year 1989 and $134,000,000 for fiscal year 1990.".

TITLE IV—HOUSING ASSISTANCE

Subtitle A—Comprehensive Homeless Assistance Plan

SEC. 401. SUBMISSION OF COMPREHENSIVE PLAN.

(a) ANNUAL SUBMISSION.—Section 401(a)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(a)(1)) is amended by inserting "annually" after "submits".

(b) SUBMISSION TO OTHER JURISDICTIONS.—Section 401(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(a)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

State and local governments. Urban areas.

"(2) at the time of submission of the comprehensive plan to the Secretary—

"(A) in the case of a State, it also submits a copy of the comprehensive plan to each metropolitan city or urban county that is located in the State and is subject to the requirements of this subsection; and

"(B) in the case of a metropolitan city or urban county, it also submits a copy of the comprehensive plan to the State in which it is located; and".

SEC. 402. CONTENTS OF COMPREHENSIVE PLAN.

Section 401(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(b)) is amended—

(1) in paragraph (3)—

(A) by inserting "facilities and" before "services"; and

(B) by striking "and" at the end;

(2) in paragraph (4)—

(A) by inserting "facilities and" before "services"; and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

State and local governments. Urban areas.

"(5) an identification of the appropriate person or agency to contact in the State, metropolitan city, or urban county regarding information relating to the contents of the comprehensive plan; and

"(6) an assurance that each recipient and project sponsor shall administer, in good faith, a policy designed to ensure that the homeless facility is free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.".

SEC. 403. PERFORMANCE REVIEWS.

Section 401(d)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(d)(3)) is amended by inserting before the period the following: "or to respond to recommendations made in accordance with paragraph (2) that are received at least 60 days prior to the beginning of the fiscal year".

102 STAT. 3231

SEC. 404. COORDINATION.

Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended by adding at the end the following new subsection:

State and local governments.

"(g) COORDINATION.—If the comprehensive plan submitted by a State contains a designation of a State agency or a State contact person to coordinate homeless assistance efforts in the State, each Federal agency that provides assistance under this Act shall provide to the designated State agency or contact person such information as may be appropriate to facilitate such coordination.".

Subtitle B—Emergency Shelter Grants

SEC. 421. DISTRIBUTION OF ASSISTANCE BY STATES TO PRIVATE NONPROFIT ORGANIZATIONS.

(a) IN GENERAL.—Section 413(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(a)) is amended by inserting "and private nonprofit organizations" after "local governments".

(b) DISTRIBUTIONS TO NONPROFITS.—Section 413(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(c)) is amended by adding at the end the following new sentence: "Any State receiving assistance under this subtitle may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals, if the local government for

the locality in which the project is located certifies that it approves of the project.".

SEC. 422. ESSENTIAL SERVICES.

(a) AMOUNT PERMITTED.—Section 414 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374) is amended—

(1) in subsection (a)(2)(B) and in subsection (b), by striking "15" and inserting "20"; and

(2) in subsection (a)(2)(B), by striking "the amount of any assistance to a" and inserting "the aggregate amount of all assistance to a State or".

(b) SUPPLEMENTAL USE OF ASSISTANCE.—Section 414(a)(2)(A) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)(A)) is amended by inserting before the semicolon the following: ", or the use of assistance under this subtitle would complement those services".

SEC. 423. HOMELESSNESS PREVENTION AS AN ELIGIBLE ACTIVITY.

(a) IN GENERAL.—Section 414(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)) is amended by adding at the end the following:

"(4) Efforts to prevent homelessness such as financial assistance to families who have received eviction notices or notices of termination of utility services if— Utilities.

"(A) the inability of the family to make the required payments is due to a sudden reduction in income;

"(B) the assistance is necessary to avoid the eviction or termination of services;

"(C) there is a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and

"(D) the assistance will not supplant funding for preexisting homelessness prevention activities from other sources.

Activities under this paragraph shall be treated as 'essential services' for the purpose of paragraph (2)(B).".

(b) REPORTING REQUIREMENT.—The Comptroller General of the United States shall conduct a study and report to the Congress not later than 1 year after the date of the enactment of this Act on various programs to prevent homelessness implemented by grantees, with particular focus on the different methods employed by grantees to determine eligibility for homelessness prevention assistance and restrictions or limitations, if any, imposed under such programs. Such report shall include— 42 USC 11374 note.

(1) an examination of other homelessness prevention programs, including other Federal programs and State and local programs; and

(2) recommendations for such legislation as the Comptroller General determines appropriate, including recommendations on how to prevent homelessness as a result of mortgage foreclosures.

SEC. 424. REQUIRED USE OF BUILDING AS SHELTER.

Section 415(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)(1)) is amended to read as follows:

"(1) it will—

"(A) in the case of assistance involving major rehabilitation or conversion, maintain any building for which assistance is used under this subtitle as a shelter for homeless individuals and families for not less than a 10-year period;

"(B) in the case of assistance involving rehabilitation (other than major rehabilitation or conversion), maintain any building for which assistance is used under this subtitle as a shelter for homeless individuals and families for not less than a 3-year period; or

"(C) in the case of assistance involving solely activities described in paragraphs (2) and (3) of section 414(a), provide services or shelter to homeless individuals and families for

the period during which such assistance is provided, without regard to a particular site or structure as long as the same general population is served.".

SEC. 425. AUTHORIZATION OF APPROPRIATIONS.

Section 417 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11377) is amended to read as follows:

"SEC. 417. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $120,000,000 for fiscal year 1989 and $125,000,000 for fiscal year 1990.".

Subtitle C—Supportive Housing

SEC. 441. AVAILABILITY OF OPERATING AND TECHNICAL ASSISTANCE FOR NEW STRUCTURES.

(a) DEFINITION OF PROJECT.—Section 422(7) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(7)) is amended
102 STAT. 3233 by inserting before the period at the end the following: "or with respect to which the Secretary provides technical assistance or annual payments for operating costs under this subtitle".

(b) OPERATING ASSISTANCE.—Section 423(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(3)) is amended by inserting after "transitional housing" the following: "(without regard to whether the housing is an existing structure)".

(c) TECHNICAL ASSISTANCE.—Section 423(a)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(4)) is amended to read as follows:

"(4) Technical assistance in—

"(A) establishing supportive housing in an existing structure;

"(B) operating supportive housing (without regard to whether the housing is an existing structure); and

"(C) providing supportive services to the residents of supportive housing (without regard to whether the housing is an existing structure).".

SEC. 442. PROJECT SPONSOR.

(a) IN GENERAL.—Section 422(8) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(8)) is amended by inserting before the period at the end the following: "or a public housing agency".

(b) STATE APPROVALS OF PERMANENT HOUSING FOR HANDICAPPED HOMELESS PERSONS.—

(1) PROJECT SPONSOR.—Section 422(8) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(8)) is amended by striking "the Governor or other chief executive official of a State" and inserting "a State".

(2) LETTERS OF PARTICIPATION.—Section 424(a)(2)(F)(i) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(2)(F)(i)) is amended by striking "the Governor or other chief executive official of the State" and inserting "the State".

SEC. 443. MAXIMUM PERIOD OF RESIDENCE IN TRANSITIONAL HOUSING.

Section 422(12)(A) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(12)(A)) is amended in the first sentence by striking "within a reasonable amount of time, as determined by the Secretary" and inserting "within 24 months (or such longer period as the Secretary determines is necessary to facilitate the transition of homeless individuals to independent living)".

SEC. 444. DEFINITION OF PERMANENT HOUSING.

Section 422(12)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(12)(B)) is amended by inserting after the first sentence the following: "The Secretary may waive the limita-

tion contained in the preceding sentence if the applicant demonstrates that—

"(i) local market conditions dictate the development of a larger project; and

"(ii) such development will achieve the neighborhood integration objectives of the program within the context of the affected community.".

SEC. 445. USE OF ADVANCES TO REPAY DEBT.

(a) IN GENERAL.—Section 423(a)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(1)) is amended by adding at the end the following new sentence: "The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this paragraph if the structure was not used as supportive housing prior to the receipt of assistance.". 102 STAT. 3234

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to notifications of awards for grants made under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act on or after November 1, 1987. 42 USC 11383 note.

SEC. 446. LIMIT ON GRANTS.

Section 423(a)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(2)) is amended by inserting ", in an amount not to exceed $200,000," after "A grant".

SEC. 447. ELIGIBLE ACTIVITIES.

Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)) is amended—

(1) in paragraph (3), by inserting before the period at the end the following: ", and for operating costs for permanent housing for handicapped homeless persons, not to exceed 50 percent of the annual operating costs of such housing for the first year of operation, and not to exceed 25 percent of such costs for the second year of operation"; and Handicapped persons.

(2) by adding at the end the following:

"A recipient may receive assistance under both paragraphs (1) and (2).".

SEC. 448. EMPLOYMENT ASSISTANCE.

(a) AUTHORITY TO PROVIDE GRANTS.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)) is amended by inserting after paragraph (4) the following new paragraph:

"(5) A grant for establishing and operating an employment assistance program for the residents of transitional housing, which shall include—

"(A) employment of residents in the operation and maintenance of the housing; and

"(B) the payment of the transportation costs of residents to places of employment.".

(b) PRIORITY.—Section 424(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(b)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) in the case of transitional housing, the extent to which the project contains an employment assistance program which meets the program criteria described in section 423(a)(5); and"

SEC. 449. LIMITS ON ADVANCES AND GRANTS.

(a) IN GENERAL.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)) is amended by adding at the end the following:

"The Secretary may increase the limit contained in paragraphs (1) and (2) to $400,000 in areas which the Secretary finds have high acquisition and rehabilitation costs.".

102 STAT. 3235

(b) LIMITED NEW CONSTRUCTION AUTHORITY.—Section 423 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383) is amended by adding at the end the following:

"(d) LIMITED NEW CONSTRUCTION AUTHORITY.—In addition to the purposes described in subsection (a)(1), an advance under such subsection may be used for new construction only if the Secretary finds that the project—

"(1) involves the cooperation of a city and a State university;

"(2) has the land donated by a State university;

"(3) proposes a supportive housing structure of at least 10,000 square feet; and

"(4) proposes a model supportive housing project with a comprehensive support system, including health services, job counseling, mental health services, and housing assistance and advocacy.".

SEC. 450. SITE CONTROL.

(a) REQUIREMENT.—

(1) IN GENERAL.—Section 424(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)) is amended by adding at the end the following:

Grants.

"(3) The Secretary shall require that an application furnish reasonable assurances that the applicant will own or have control of a site for the proposed project not later than 6 months after notification of an award for grant assistance. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.".

42 USC 11384 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies to notifications of awards for grants made under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act on or after November 1, 1987.

(b) PRIORITY.—Section 424(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(b)) (as amended by section 448 of this subtitle) is further amended—

(1) by striking "and" at the end of paragraph (7);

(2) by redesignating paragraph (8) as paragraph (9); and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) the extent to which the applicant or project sponsor has control of the site of the proposed project; and".

SEC. 451. FLOOD PLAIN RESTRICTIONS.

Section 424 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384) is amended by adding at the end the following:

"(e) FLOOD PROTECTION STANDARDS.—Flood protection standards applicable to housing acquired, rehabilitated, or assisted under this subtitle shall be no more restrictive than the standards applicable under Executive Order No. 11988 (May 24, 1977) to the other programs under this title.".

SEC. 452. MATCHING REQUIREMENT.

Section 425 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11385) is amended to read as follows:

102 STAT. 3236

"SEC. 425. MATCHING FUNDS REQUIREMENTS.

"(a) IN GENERAL.—Each recipient shall be required to supplement the amount of assistance provided under paragraphs (1) and (2) of section 423(a) with an equal amount of funds from non-Federal sources. Each State submitting an application for permanent housing for handicapped homeless persons shall certify that it will supplement the amount of assistance provided under paragraphs (1) and (2) of section 423(a) with an equal amount of funds from non-Federal sources.

State and local governments.

"(b) NON-FEDERAL FUNDS.—For the purpose of this section, the term 'funds from non-Federal sources' includes State or local agency

funds, any salary paid to staff to carry out the program of the recipient, any salary paid to residents of transitional housing under an employment assistance program described in section 423(a)(5), the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary, and the value of any donated material or building and the value of any lease on a building.".

SEC. 453. REPORTS TO CONGRESS.

Section 427 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11387) is amended to read as follows:

"SEC. 427. REPORTS TO CONGRESS.

"The Secretary shall submit annually to the Congress a report summarizing the activities carried out under this subtitle and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 3 months after the end of each fiscal year (6 months in the case of fiscal year 1988).".

SEC. 454. AUTHORIZATION OF APPROPRIATIONS.

Section 428(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11388(a)) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle $100,000,000 for fiscal year 1989 and $105,000,000 for fiscal year 1990.".

SEC. 455. REALLOCATIONS.

Section 428 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11388) is amended by adding at the end the following new subsection:

"(d) REALLOCATIONS.—If, following the receipt of applications for the final funding round under this subtitle for any fiscal year, any amount set aside for assistance pursuant to subsection (b)(1), (b)(2), or (c) will not be required to fund the approvable applications submitted for such assistance, the Secretary shall reallocate such amount for other assistance pursuant to this subtitle.".

Subtitle D—Supplemental Assistance for Facilities To Assist the Homeless

SEC. 461. USE OF ASSISTANCE.

Section 432(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(a)) is amended—

(1) in paragraph (1)— 102 STAT. 3237

(A) by striking "or" at the end of subparagraph (A); and

(B) by adding at the end the following new subparagraph:

"(C) to provide supportive services for the homeless; or"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting "operation," after "renovation,"; and

(B) in subparagraph (B), by striking "homeless individuals" and inserting "the homeless".

SEC. 462. RESERVATION OF FUNDS.

The second sentence of section 432(d) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(d)) is amended—

(1) by inserting "and services" after "facilities" each place it appears; and

(2) by striking "individuals and" and inserting "individuals or".

SEC. 463. SITE CONTROL.

(a) REQUIREMENT.—Section 432 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392) is amended—

TITLE III—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

Sec. 301. Report on emergency food and shelter grant program.
Sec. 302. Authorization of appropriations.

TITLE IV—HOUSING ASSISTANCE

Subtitle A—Comprehensive Homeless Assistance Plan

Sec. 401. Submission of comprehensive plan.
Sec. 402. Contents of comprehensive plan.
Sec. 403. Performance reviews.
Sec. 404. Coordination.

Subtitle B—Emergency Shelter Grants

Sec. 421. Distribution of assistance by States to private nonprofit organizations.
Sec. 422. Essential services.
Sec. 423. Homelessness prevention as an eligible activity.
Sec. 424. Required use of building as shelter.
Sec. 425. Authorization of appropriations.

Subtitle C—Supportive Housing

Sec. 441. Availability of operating and technical assistance for new structures.
Sec. 442. Project sponsor.
Sec. 443. Maximum period of residence in transitional housing.
Sec. 444. Definition of permanent housing.
Sec. 445. Use of advances to repay debt.
Sec. 446. Limit on grants.
Sec. 447. Eligible activities.
Sec. 448. Employment assistance.
Sec. 449. Limits on advances and grants.
Sec. 450. Site control.
Sec. 451. Flood plain restrictions. 102 STAT. 3225
Sec. 452. Matching requirement.
Sec. 453. Reports to Congress.
Sec. 454. Authorization of appropriations.
Sec. 455. Reallocations.

Subtitle D—Supplemental Assistance for Facilities To Assist the Homeless

Sec. 461. Use of assistance.
Sec. 462. Reservation of funds.
Sec. 463. Site control.
Sec. 464. Authorization of appropriations.

Subtitle E—Miscellaneous Provisions

Sec. 481. Section 8 assistance for single room occupancy dwellings.
Sec. 482. Administrative provisions.
Sec. 483. Report on effect of rent control on homelessness.
Sec. 484. Report on allocation formulas.
Sec. 485. Regulations.

TITLE V—IDENTIFICATION AND USE OF SURPLUS FEDERAL PROPERTY

Sec. 501. Identification and use of unutilized and underutilized public buildings and property.

TITLE VI—REVISION AND EXTENSION OF PROGRAMS OF HEALTH CARE FOR THE HOMELESS

Subtitle A—Categorical Grants for Primary Health Services and Substance Abuse Services

Sec. 601. Increase in required amount of matching funds and modification in eligibility for waiver with respect to matching funds.
Sec. 602. Establishment of authority for temporary continued provision of services to certain former homeless individuals.
Sec. 603. Clarification with respect to certain provisions.
Sec. 604. Authorization of appropriations.

Subtitle B—Block Grant for Community Mental Health Services

Sec. 611. Authorization of appropriations and contingent conversions to categorical program.
Sec. 612. Eligibility of territories.
Sec. 613. Technical and conforming amendments.

Subtitle C—Authorization of Appropriations for Community Demonstration Projects

Sec. 621. Mental health services for homeless individuals with chronic mental illness.
Sec. 622. Alcohol and drug abuse treatment of homeless individuals.

Subtitle D—General Provisions

Sec. 631. Effective dates.

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

Grants.

"(e) SITE CONTROL.—The Secretary shall require that an application furnish reasonable assurances that the applicant will own or have control of a site for the proposed project not later than 6 months after notification of an award for grant assistance. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.".

42 USC 11392 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to notifications of awards for grants made under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act on or after November 1, 1987.

SEC. 464. AUTHORIZATION OF APPROPRIATIONS.

The first sentence of section 434 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11394) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $10,000,000 for fiscal year 1989 and $11,000,000 for fiscal year 1990.".

Subtitle E—Miscellaneous Provisions

SEC. 481. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS.

(a) INCREASE IN BUDGET AUTHORITY.—Section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)) is amended to read as follows:

"(a) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for

102 STAT. 3238

assistance under section 8(e)(2) of such Act is authorized to be increased by $50,000,000 on or after October 1, 1988, and by $50,000,000 on or after October 1, 1989.".

(b) REHABILITATION OF EFFICIENCY UNITS.—Section 441(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(b)) is amended by inserting before the period at the end the following: ", except that amounts made available under this section may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating such units.".

(c) FIRE AND SAFETY IMPROVEMENTS.—Section 441(d) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(d)) is amended by adding at the end the following new sentence: "For purposes of this subsection, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.".

(d) ANNUAL ADJUSTMENT OF COST LIMITATION.—

(1) ADJUSTMENT REQUIRED.—Section 441(e) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(e)) is amended by adding at the end the following new paragraph:

"(3) The Secretary of Housing and Urban Development shall increase the limitation in paragraph (1) on October 1 of each year by an amount necessary to take into account increases in construction costs during the previous 12-month period.".

42 USC 11401 note.

(2) EFFECTIVE DATE.—The first increase under the amendment made by paragraph (1) shall be effective with respect to assistance provided on or after October 1, 1988.

SEC. 482. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—Subtitle E of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401 et seq.) is amended by adding at the end the following new section:

"SEC. 443. ADMINISTRATIVE PROVISIONS. 42 USC 11402.

"The provisions of, and regulations and procedures applicable under, section 104(g) of the Housing and Community Development Act of 1974 shall apply to assistance and projects under this title.".

(b) CONFORMING AMENDMENT.—The table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 prec.) is amended by inserting after the item relating to section 442 the following new item:

"Sec. 443. Administrative provisions.".

SEC. 483. REPORT ON EFFECT OF RENT CONTROL ON HOMELESSNESS. 42 USC 11301 note.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall submit to the Congress a report evaluating the impact of local housing rent controls and regulations on the rate of homelessness, and on the development, supply, availability, and affordability of housing, in major cities in the United States.

(b) SPECIFIC REQUIREMENTS.—The report required in this section shall include—

(1) a listing of localities that have housing rent controls or regulations, the nature and extent of such controls or regulations, and an assessment of the variance of such controls or regulations among localities;

(2) an evaluation of the impact of such controls or regulations on the development, supply, and growth of affordable rental housing for lower income families, including an accounting of any increase or decrease in the supply of rental units that has occurred during the period of such controls or regulations; 102 STAT. 3239

(3) an evaluation of the benefits and effectiveness of such controls or regulations in ensuring affordable rents for lower income families;

(4) an evaluation of the relationship between the existence of such controls or regulations and Federal subsidized housing assistance in the locality, including whether such controls or regulations necessitate more or less Federal housing aid;

(5) an evaluation of the impact on the resident population of removing such controls or regulations, including an assessment of potential rent increases on lower income residents, the options available to localities to mitigate any such increases, the potential increased demand for Federal subsidized housing assistance, and the impact on fair market rents in the locality;

(6) an evaluation of the effect of such controls or regulations on commercial and nonrental housing development in the locality;

(7) a demographic review of the income levels of the population in controlled or regulated units;

(8) an evaluation of the effect of such controls or regulations on the quality of controlled or regulated units;

(9) an evaluation of compliance with such controls or regulations by owners, management, and residents of controlled or regulated units;

(10) an evaluation of the administration and enforcement of such controls or regulations by local officials;

(11) an evaluation of the impact of factors other than rent controls or regulations that affect the development of affordable housing in the locality;

(12) a comparison to other localities that have not instituted such controls or regulations on the supply, development, availability, and affordability of rental housing; and

(13) any other related issue the Secretary of Housing and Urban Development determines to be of interest or significance.

(c) DEADLINE.—The Secretary of Housing and Urban Development shall submit the report required in this section within 12 months after the date of the enactment of this Act.

SEC. 484. REPORT ON ALLOCATION FORMULAS.

The Secretary of Housing and Urban Development shall—

(1) examine whether an alternative system of distributing funds under title IV of the Stewart B. McKinney Homeless Assistance Act would be feasible to ensure that the funds are provided to the jurisdictions with the greatest need of assistance for the homeless; and

(2) not later than March 1, 1989, transmit to the Congress a report on such examination.

42 USC 11301 note.

SEC. 485. REGULATIONS.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development or other Federal entity involved shall by notice establish such requirements as may be necessary to carry out the amendments made by titles I through IV and by section 501(2)(B). The Secretary or other Federal entity involved shall issue regulations based on the notice not later than 12 months after the date of the enactment of this Act.

102 STAT. 3240

TITLE V—IDENTIFICATION AND USE OF SURPLUS FEDERAL PROPERTY

SEC. 501. IDENTIFICATION AND USE OF UNUTILIZED AND UNDER UTILIZED PUBLIC BUILDINGS AND PROPERTY.

Section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411) is amended—

(1) by inserting "**UNUTILIZED AND**" before "**UNDERUTILIZED**" in the heading of such section;

(2) in subsection (a)—

(A) by inserting "unutilized or" before "underutilized";

(B) by inserting before "shall identify" a comma and "within 2 months after collecting such information,"; and

(3) in subsection (b)—

(A) in paragraph (1), by inserting after "agency's need" the following: "or to make the property available, on an interim basis, for use as facilities to assist the homeless", and

(B) in paragraph (2), by inserting after "be declared excess" the following. "or made available on an interim basis for use as facilities to assist the homeless"; and

(4) in subsection (d)—

(A) by striking out "BY LEASE" from the heading of such subsection;

(B) by striking out paragraph (1) and inserting the following:

"(1) The ownership of buildings and property made available under this section shall not be transferred from the Federal Government. Property identified pursuant to subsection (a)—

"(A) which has been designated as surplus property, may be made available under this section only through the use of leases for at least 1 year; or

"(B) which has not been so designated, may be made available for interim use by lease for at least 1 year or by permit."; and

(C) in paragraph (2), by striking out "To permit leases of surplus Federal buildings and other real property under this section." and inserting in lieu thereof the following: "With respect to property identified under subsection (a) which has been designated as surplus property,".

TITLE VI—REVISION AND EXTENSION OF PROGRAMS OF HEALTH CARE FOR THE HOMELESS

102 STAT. 3241

Subtitle A—Categorical Grants for Primary Health Services and Substance Abuse Services

SEC. 601. INCREASE IN REQUIRED AMOUNT OF MATCHING FUNDS AND MODIFICATION IN ELIGIBILITY FOR WAIVER WITH RESPECT TO MATCHING FUNDS.

(a) INCREASE IN REQUIRED AMOUNT.—Section 340(e)(1)(A) of the Public Health Service Act (42 U.S.C. 256(e)(1)(A)) is amended—

(1) in clause (i), by striking "under the grant; and" and inserting the following: "for the first fiscal year of payments under the grant and 66⅔ percent of the costs of providing such services for any subsequent fiscal year of payments under the grant; and"; and

(2) in clause (ii), by striking "Federal funds" and all that follows and inserting the following: "Federal funds provided for the first fiscal year of payments under the grant and not less than $1 (in cash or in kind under such subparagraph) for each $2 of Federal funds provided for any subsequent fiscal year of payments under the grant."

(b) EFFECTIVE DATE FOR INCREASE.—The amendment made by subsection (a) shall take effect October 1, 1989. 42 USC 256 note.

(c) MODIFICATION IN ELIGIBILITY FOR WAIVER.—Section 340(e)(2) of the Public Health Service Act (42 U.S.C. 256(e)(2)) is amended to read as follows:

"(2) The Secretary may waive the requirement established in paragraph (1)(A) if the applicant involved is a nonprofit private entity and the Secretary determines that it is not feasible for the applicant to comply with such requirement.".

SEC. 602. ESTABLISHMENT OF AUTHORITY FOR TEMPORARY CONTINUED PROVISION OF SERVICES TO CERTAIN FORMER HOMELESS INDIVIDUALS.

(a) IN GENERAL.—Section 340 of the Public Health Service Act (42 U.S.C. 256) is amended—

(1) by redesignating subsections (h) through (q) as subsections (i) through (r), respectively; and

(2) by adding after subsection (g) the following new subsection:

"(h) TEMPORARY CONTINUED PROVISION OF SERVICES TO CERTAIN FORMER HOMELESS INDIVIDUALS.—If any grantee under subsection (a) has provided services described in subsection (f) or (g) to a homeless individual, any such grantee may, notwithstanding that the individual is no longer homeless as a result of becoming a resident in permanent housing, expend the grant to continue to provide such services to the individual for not more than 12 months.".

(b) CONFORMING AMENDMENTS.—

(1) Section 340(d)(1) of the Public Health Service Act (42 U.S.C. 256(d)(1)) is amended—

(A) in subparagraph (C), by striking "(h)" and inserting "(i)";

102 STAT. 3242

(B) in subparagraph (D), by striking "(i)" and inserting "(j)";

(C) in subparagraph (E), by striking "(j)" and inserting "(k)"; and

(D) in subparagraph (F), by striking "(k)" and inserting "(l)".

(2) Section 332(a)(3) of the Public Health Service Act (42 U.S.C. 254e(a)(3)) is amended by striking "340(q)(2)" and inserting "340(r)".

(3) Section 536(1) of the Public Health Service Act (42 U.S.C. 290cc-36(1)) is amended by striking "340(q)(2)" and inserting "340(r)".

SEC. 603. CLARIFICATION WITH RESPECT TO CERTAIN PROVISIONS.

(a) DEFINITION OF HOMELESS INDIVIDUAL.—Section 340(r)(2) of the Public Health Service Act (as redesignated in section 602(a)(1) of this title) is amended by striking "living accommodations." and inserting "living accommodations and an individual who is a resident in transitional housing.".

(b) PROVISION OF TECHNICAL ASSISTANCE.—Section 340(o)(2) of the Public Health Service Act (as redesignated in section 602(a)(1) of this title) is amended by striking "(p)(1)," and inserting "(q)(1) for a fiscal year,".

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

Section 340(q)(1) of the Public Health Service Act (as redesignated in section 602(a)(1) of this title) is amended by striking "There are authorized" and all that follows and inserting the following: "There are authorized to be appropriated to carry out this section $61,200,000 for fiscal year 1989, $63,600,000 for fiscal year 1990, and $66,200,000 for fiscal year 1991.".

Subtitle B—Block Grant for Community Mental Health Services

SEC. 611. AUTHORIZATION OF APPROPRIATIONS AND CONTINGENT CONVERSIONS TO CATEGORICAL PROGRAM.

(a) IN GENERAL.—Section 535 of the Public Health Service Act (42 U.S.C. 290cc-35) is amended to read as follows:

"FUNDING

"SEC. 535. (a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, there are authorized to be appropriated $35,000,000 for each of the fiscal years 1989 and 1990 and such sums as may be necessary for fiscal year 1991.

"(b) EFFECT OF INSUFFICIENT APPROPRIATIONS FOR MINIMUM ALLOTMENTS.—

State and local governments.

"(1) If the amounts made available pursuant to subsection (a) are insufficient for providing each State with an allotment under section 521(a) of not less than $150,000, the Secretary shall, from such amounts as are made available pursuant to such subsection, make grants to the States for providing to homeless individuals the mental health services described in section 524.

102 STAT. 3243

"(2) Paragraph (1) may not be construed to require the Secretary to make a grant under such paragraph to each State.".

(b) FAILURE OF STATE WITH RESPECT TO EXPENDING ALLOTMENT.—Section 529 of the Public Health Service Act (42 U.S.C. 290cc-29) is amended to read as follows:

"CONVERSION TO STATE CATEGORICAL PROGRAM IN EVENT OF FAILURE OF STATE WITH RESPECT TO EXPENDING ALLOTMENT

"SEC. 529. (a) IN GENERAL.—Subject to subsection (c), the Secretary shall, from amounts described in subsection (b), make grants to public and nonprofit private entities for the purpose of providing to homeless individuals the mental health services described in section 524.

"(b) DESCRIPTION OF FUNDS.—The amounts referred to in subsection (a) are any amounts made available in appropriations Acts for allotments under section 521(a) that are not allotted under such section to a State as a result of—

"(1) the failure of the State to submit an application under section 522;

"(2) the failure, in the determination of the Secretary, of any State to prepare within a reasonable period of time such application in compliance with such section; or

"(3) the State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"(c) REQUIREMENT OF PROVISION OF SERVICES IN CERTAIN STATES.—With respect to grants under subsection (a), amounts made available pursuant to subsection (b) as a result of the State involved shall be available only for grants to provide services in such State.".

SEC. 612. ELIGIBILITY OF TERRITORIES.

(a) DEFINITION OF STATE.—Section 536(3) of the Public Health Service Act (42 U.S.C. 290cc-36(3)) is amended by striking "Columbia," and all that follows and inserting the following: "Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.".

(b) MINIMUM ALLOTMENT.—Section 528(a)(1) of the Public Health Service Act (42 U.S.C. 290cc-28(a)(1)) is amended to read as follows:

"(1) $275,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico and $50,000 for each of Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands; and". District of Columbia.

SEC. 613. TECHNICAL AND CONFORMING AMENDMENTS.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended—

(1) in section 521(a), by amending the first sentence to read as follows: "The Secretary shall for each of the fiscal years 1989 through 1991 make an allotment for each State in an amount determined in accordance with section 528."; 42 USC 290cc-21.

(2) in section 541(a)(4), by striking "522" and inserting "543"; 42 USC 290dd.

(3) in section 545(d), by striking "526" and inserting "547"; and 42 USC 290ee.

(4) in section 546(a)(4), by striking "521" and inserting "542". 42 USC 290ee-1.

Subtitle C—Authorization of Appropriations for Community Demonstration Projects

SEC. 621. MENTAL HEALTH SERVICES FOR HOMELESS INDIVIDUALS WITH CHRONIC MENTAL ILLNESS.

The first sentence of section 612(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended to read as follows: "For payments pursuant to section 504(f) of the Public Health Service Act, there are authorized to be appropriated $11,000,000 for fiscal year 1989, $11,500,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991, in addition to any other amounts authorized to be appropriated for such payments for each of such fiscal years.".

SEC. 622. ALCOHOL AND DRUG ABUSE TREATMENT OF HOMELESS INDIVIDUALS.

Section 513(b) of the Public Health Service Act (42 U.S.C. 290bb-2(b)) is amended to read as follows:

"(b) There are authorized to be appropriated to carry out section 512(c) $14,000,000 for fiscal year 1989, $17,000,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991.".

Subtitle D—General Provisions

42 USC 256 note.

SEC. 631. EFFECTIVE DATES.

The amendments made by subsection (a) of section 601 shall take effect in accordance with subsection (b) of such section. The amendments otherwise made by this title shall take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

TITLE VII—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS

Subtitle A—Homeless Assistance Programs

SEC. 701. ADULT EDUCATION FOR THE HOMELESS.

Contracts.
Grants.

(a) GENERAL AUTHORITY.—

(1) IMPLEMENTATION.—Section 702(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(a)) is amended by striking "to develop a plan and implement a program" and inserting the following: "to implement, either directly or through contracts and grants, a program".

(2) CONFORMING AMENDMENTS.—

(A) SECTION HEADING.—The heading of section 702 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421) is amended by striking "STATEWIDE" and inserting "STATE".

(B) TABLE OF CONTENTS.—The item relating to section 702 in the table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 prec.) is amended to read as follows:

102 STAT. 3245

"Sec. 702. State literacy initiatives.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 702(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(c)(1)) is amended to read as follows:

"(1) There is authorized to be appropriated $10,000,000 for each of the fiscal years 1989 and 1990 for the adult literacy and basic skills remediation programs authorized by this section.".

(c) DEFINITION OF STATE.—Section 702(d) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(d)) is amended—

(1) by striking "and"; and

(2) by inserting before the period at the end the following: ", the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands".

SEC. 702. EDUCATION FOR HOMELESS CHILDREN AND YOUTH.

(a) GRANTS FOR STATE ACTIVITIES.—

Territories, U.S.

(1) ALLOCATION.—Section 722(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432(b)) is amended by inserting before the period at the end the following: "and 0.1 percent of the amount appropriated for each fiscal year shall be allocated by the Secretary among the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands".

(2) TECHNICAL AMENDMENT.—Section 722(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432(b)) is amended by striking "section 111" and all that follows through "of 1981)" and inserting "section 1005 of the Elementary and Secondary Education Act of 1965".

(3) DATA GATHERING.—Section 722(d)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432(d)(1)) is amended by inserting "annually" before "gather".

(4) REPORTS.—Section 722(d)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432(d)(3)) is amended to read as follows:

"(3) prepare and submit to the Secretary not later than December 31 of each year a report on the data gathered pursuant to paragraph (1).". Reports.

(5) AUTHORIZATION OF APPROPRIATIONS.—Section 722(g)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432(g)(1)) is amended to read as follows:

"(1) There is authorized to be appropriated to carry out this section $5,000,000 for each of the fiscal years 1989 and 1990.".

(b) EXEMPLARY GRANTS AND DISSEMINATION OF INFORMATION.—Section 723(f) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11433(f)) is amended to read as follows:

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,500,000 for each of the fiscal years 1989 and 1990.".

(c) DEFINITION OF STATE.—Section 725(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11435(2)) is amended—

(1) by striking "and"; and

(2) by inserting before the period at the end the following: ", the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands".

102 STAT. 3246

SEC. 703. JOB TRAINING FOR THE HOMELESS.

(a) DEFINITION OF STATE.—Section 737(5) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11447(5)) is amended—

(1) by striking "and" and inserting a comma; and

(2) by inserting before the period at the end the following: ", the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 739(a)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449(a)(1)) is amended to read as follows:

"(1) There is authorized to be appropriated to carry out this subtitle $13,000,000 for each of the fiscal years 1989 and 1990, of which amount $2,200,000 for each fiscal year shall be available only to carry out section 738.".

(c) RATABLE REDUCTIONS.—Section 739(a)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449(a)(2)) is amended—

(1) by striking "in fiscal year 1988" and inserting "for any fiscal year"; and

(2) by striking "$12,000,000" and inserting "the amount authorized in paragraph (1)".

SEC. 704. EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM.

(a) ALLOCATION OF GRANTS.—The second sentence of section 752(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11462(a)) is amended to read as follows: "Such grants shall be allocated to the States (as defined in section 673 of such Act) in accordance with the formulas set forth in subsections (a) and (b) of section 674 of such Act.". State and local governments.

(b) PROGRAM REQUIREMENTS.—

(1) ADDITIONAL ELIGIBLE USE OF FUNDS.—Section 753(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11463(c)) is amended by adding at the end the following new paragraph:

"(4) Provision of assistance to any individual who has received a notice of foreclosure, eviction, or termination of utility services, if— Utilities.

"(A) the inability of the individual to make mortgage, rental, or utility payments is due to a sudden reduction in income;

"(B) the assistance is necessary to avoid the foreclosure, eviction, or termination of utility services; and

"(C) there is a reasonable prospect that the individual will be able to resume the payments within a reasonable period of time.".

(2) MAXIMUM AMOUNT AVAILABLE FOR ADDITIONAL ELIGIBLE USE.—Section 753(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11463(b)) is amended—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(4) not more than 25 percent of the amounts received will be used for the purpose described in subsection (c)(4).".

102 STAT. 3247

(c) TIMELY AWARDING OF FUNDS.—

(1) 60-DAY REQUIREMENT FOR AWARDING FUNDS.—Section 753(b)(1)(A) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11463(b)(1)(A)) is amended in the matter preceding clause (i) by inserting after "receives" the following: ", by not later than 60 days after such receipt,".

(2) COMPLIANCE WITH 60-DAY REQUIREMENT.—Section 753 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11463) is amended by adding at the end the following new subsection:

"(d) COMPLIANCE WITH 60-DAY REQUIREMENT.—It shall be left solely to the discretion of the Secretary to enforce the 60-day requirement specified in subsection (b)(1)(A).".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 754 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11464) is amended to read as follows:

"SEC. 754. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this subtitle $42,000,000 for each of the fiscal years 1989 and 1990.".

SEC. 705. TECHNICAL AMENDMENTS TO OLDER AMERICANS ACT OF 1965.

The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended—

42 USC 3002.

(1) in section 102—

(A) by redesignating paragraphs (8) and (9), as added by section 146(a) of the Older Americans Act Amendments of 1987 (Public Law 100–175; 101 Stat. 950), as paragraphs (10) and (11), respectively; and

(B) by redesignating paragraph (8), as added by section 182(b)(1)(B) of the Older Americans Act Amendments of 1987 (Public Law 100–175; 101 Stat. 964), as paragraph (12);

42 USC 3015.

(2) in section 204(a)(1), by inserting a comma after "minorities";

42 USC 3021.

(3) in section 301(a), by striking "Hawaiian organizations,," and inserting "Hawaiian organizations,";

42 USC 3025.

(4) in section 305—

(A) in subsection (a)(1)(E), by striking "such areas,," and inserting "such areas,"; and

(B) in subsection (d), by redesignating subparagraphs (A), (B), (C), and (D) as paragraphs (1), (2), (3), and (4), respectively;

42 USC 3026.

(5) in section 306(a)(1), by striking "such area,," and inserting "such area,";

42 USC 3027.

(6) in section 307(a)(3)(A), by striking "; and" and inserting a period;

42 USC 3031.

(7) in section 411(c), by striking "disease and and" and inserting "disease and";

42 USC 3035a.

(8) in section 422(b)—

(A) in paragraph (1), by striking "Alzheimers' disease and other neurological and organic disorders of the Alzheimers'

type" and inserting "Alzheimer's disease and related disorders with neurological and organic brain dysfunction"; and

(B) in paragraph (9)(B), by striking "ACTION" and inserting "the ACTION Agency"; and

(9) in section 507(3), by adding "; and" at the end.

42 USC 3056e.

Subtitle B—Job Training Partnership Act

Jobs for Employable Dependent Individuals Act.

SEC. 711. SHORT TITLE.

29 USC 1501 note.

This subtitle may be cited as the "Jobs for Employable Dependent Individuals Act".

SEC. 712. INCENTIVE BONUS ENTITLEMENT FOR EMPLOYABLE DEPENDENT INDIVIDUALS.

(a) AMENDMENTS TO JTPA.—The Job Training Partnership Act (29 U.S.C. 1501 et seq.) (hereinafter in this title referred to as the "Act") is amended—

(1) by redesignating title V and all references thereto as title VI,

29 USC 49.

(2) by redesignating sections 501, 502, 503, and 504 as sections 601, 602, 603, and 604, respectively, and

29 USC 49a, 49b, 49d–49j, 49*l*, 49*l*–1 and note; 42 USC 632, 633, 602; 29 USC 1504.

(3) by inserting after title IV the following new title:

"TITLE V—JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE BONUS PROGRAM

State and local governments.

"SEC. 501. STATEMENT OF PURPOSE.

29 USC 1791.

"It is the purpose of this title to entitle each State to the payment of a bonus for the successful job placement of certain employable dependent individuals.

"SEC. 502. DEFINITIONS.

29 USC 1791a.

"For the purpose of this title—

"(1) the term 'welfare assistance' means—

"(A) cash payments made pursuant to part A of title IV of the Social Security Act (relating to the aid to families with dependent children program);

"(B) general welfare assistance to Indians, as provided pursuant to the Act of November 2, 1921 (25 U.S.C. (13)), commonly referred to as the Snyder Act; or

"(C) cash assistance and medical assistance for refugees made available pursuant to section 412(e) of the Immigration and Nationality Act;

"(2) the term 'disability assistance' means benefits offered pursuant to title XVI of the Social Security Act (relating to the supplemental security income program);

"(3) the term 'long-term recipient' means an individual who has received the benefits described in paragraphs (1) and (2) for 24 months during the 28-month period immediately preceding application for programs offered under this title;

"(4) the term 'continuous employment' means gainful employment under which wages or salaries are reportable for unemployment insurance purposes, and such wages or salaries are earned during a total of 4 out of 5 consecutive calendar quarters;

"(5) the term 'supported employment' has the meaning given such term by section 7(18) of the Rehabilitation Act of 1973; and

"(6) the term 'Federal contribution' means the amount of the Federal component of cash payments to individuals within the

102 STAT. 3249

participating State under the programs described in this section, including part A of title IV of the Social Security Act.

29 USC 1791b.

"SEC. 503. ELIGIBILITY FOR INCENTIVE BONUSES.

"(a) IN GENERAL.—An individual shall be eligible to be counted for the purpose of this title if—

"(1) the individual is—

"(A) an eligible long-term recipient described in subsection (b);

"(B) an eligible young recipient described in subsection (c);

"(C) an eligible blind or disabled recipient described in subsection (d); or

"(D) an eligible young blind or disabled recipient described in subsection (e); and

"(2) the individual has met the requirements of section 504.

"(b) LONG-TERM RECIPIENT.—An eligible long-term recipient is an individual who—

"(1) is a long-term recipient of welfare assistance;

"(2) is the head of a household; and

"(3) had no marketable or significant work experience during the year preceding determination of eligibility for programs under this Act.

"(c) YOUNG RECIPIENT.—An eligible young recipient is an individual who—

"(1) is receiving welfare assistance at the time determination of eligibility is made for programs under this Act;

"(2) is the head of a household;

"(3) has not attained 22 years of age;

"(4) has not completed secondary school or its equivalent; and

"(5) had no marketable or significant work experience during the year preceding determination of eligibility for programs under this Act.

"(d) BLIND OR DISABLED RECIPIENT.—An eligible blind or disabled recipient is an individual who—

"(1) is blind or disabled;

"(2) is a long-term recipient of disability assistance; and

"(3) had no marketable or significant work experience during the year preceding determination of eligibility for programs offered under this Act.

"(e) YOUNG BLIND OR DISABLED RECIPIENT.—An eligible young blind or disabled recipient is an individual who—

"(1) is blind or disabled;

"(2) is receiving disability assistance at the time determination of eligibility is made for programs under this Act;

"(3) has not attained 22 years of age; and

"(4) had no marketable or significant work experience during the year preceding such determination of eligibility.

29 USC 1791c.

"SEC. 504. ADDITIONAL ELIGIBILITY REQUIREMENTS.

"(a) IN GENERAL.—An individual described in section 503 may not be considered eligible to be counted for the purpose of payment of an incentive bonus under this title unless such individual—

"(1) has successfully participated in education, training, or other activities offered under this Act;

"(2) has been placed in (A) unsubsidized, continuous employment or (B) supported employment following such participation;

102 STAT. 3250

"(3) receives from such employment a wage or income which is greater than or equal to such individual's placement bonus base; and

"(4) no longer receives cash benefits provided under the assistance programs described in paragraphs (1) and (2) of section 502, unless receipt of such benefits—

"(A) is limited to 1 calendar quarter (or an equivalent period) during the 5 calendar quarters used to determine continuous employment; and

"(B) is caused by a termination of employment due to—
"(i) a layoff or permanent closure of a plant or facility;
"(ii) a relocation of Federal facilities; or
"(iii) a natural disaster.

"(b) QUALIFIED EARNINGS.—An individual shall be considered to be earning a wage or income which meets the requirements of subsection (a)(3) if, during a period of continuous employment, the individual earns an income reportable for unemployment insurance purposes and does not receive cash benefits under the programs described in section 502.

"(c) EDUCATIONAL REQUIREMENTS.—An individual described in section 503 (c) or (e) shall be considered to have met the requirements of subsection (a)(1) if the individual no longer receives welfare assistance and—

"(1) reenrolls in secondary school or its equivalent and matriculates to the next grade level or its equivalent within 1 year of enrollment;
"(2) enrolls in an accredited vocational or technical school not less than full time and is making satisfactory progress in a course of study which can reasonably be expected to lead to employment; or
"(3) obtains the equivalent of a secondary school diploma within 12 months following the individual's determination of eligibility for programs offered under this title.

"SEC. 505. AMOUNT OF INCENTIVE BONUS. 29 USC 1791d.

"(a) IN GENERAL.—The amount of the incentive bonus paid to each State shall be equal to the sum of—

"(1) 75 percent of the placement bonus base for each successful placement in employment of an individual described in section 503;
"(2) 75 percent of the placement bonus base for the second continuous year of such employment; and
"(3) 75 percent of the placement bonus base for the third continuous year of such employment,

in excess of the number of such placements made in program year 1987 or such other base period as provided by agreement between the Governor and the Secretary.

"(b) PLACEMENT BONUS BASE FOR PURPOSES OF SECTION 503 (b) AND (c).—For the purpose of this section, the placement bonus base—

"(1) for an individual who qualifies under section 503(b) is equal to the sum of the Federal contribution to amounts received by the individual and the family of such individual under a State plan approved under part A of title IV of the Social Security Act, relating to aid to families with dependent children, or under section 412(e) of the Immigration and Nationality Act, relating to cash assistance and medical assistance to refugees, or both, for the 2 fiscal years prior to the determination made under section 503 divided by 2; and 102 STAT. 3251
"(2) for an individual who qualifies under section 503(c) shall be the annual amount to which such individual would have been entitled for 1 year at the time of the determination of eligibility of the individual, if such individual has not received the benefits described in section 502(1)(A) for the prior year, under part A of title IV of the Social Security Act, relating to the aid to families with dependent children program, or section 412(e) of the Immigration and Nationality Act relating to cash assistance and medical assistance to refugees.

"(c) PLACEMENT BONUS BASE FOR PURPOSES OF SECTION 503 (d) AND (e).—For the purpose of this section, the placement bonus base—

"(1) for an individual who qualifies under section 503(d) is equal to the sum of the Federal contribution to amounts received by the individual under title XVI of the Social Security Act relating to supplemental security income for the 2 fiscal years prior to the determination made under section 503 divided by 2; and

incentive requested in the application for the purpose of making expenditures in accordance with this title. Bonus payments received thereafter may be used for reimbursement of such expenditures.

"(b) LIMITATIONS.—(1)(A) During any program year, the Governor may use an amount not to exceed 15 percent of the State's total bonus payments or amounts reserved under subsection (a) for administrative costs incurred under this title, including data and information collection and compilation, recordkeeping, or the preparation of applications for incentive bonuses.

"(B) The amount of incentive bonus payments or the amounts reserved under subsection (a) which remain after the deduction of administrative expenses under paragraph (1) shall be distributed to service delivery areas within the State in accordance with an agreement between the Governor and representatives of such areas. Such agreement shall reflect an equitable method of distribution which is based on the degree to which the efforts of such area contributed to the State's qualification for an incentive bonus payment under this title. Contracts.

"(2)(A) Subject to subparagraph (B), a maximum of 10 percent of the amounts received under this title in any program year by each service delivery area may be used for the administrative costs of establishing and maintaining systems necessary for operation of programs under this title, including incentive payments described in subsection (c), technical assistance, data and information collection and compilation, management information systems, post-program followup activities, and research and evaluation activities. The balance of funds not so expended shall be used for activities similar to activities described in section 204.

102 STAT. 3253

"(B) If a service delivery area determines that administrative costs under this title will exceed the 10 percent administrative allocation, such area may use an additional 5 percent allocation of bonus payments or amounts reserved under subsection (a) for such activities if such area demonstrates to the Governor that the administering agency in the area needs additional funds to continue administrative activities under this title.

"(c) INCENTIVE PAYMENTS TO SERVICE PROVIDERS.—Each service delivery area may make incentive payments to service providers within its service delivery area, including participating State and local agencies, and community-based organizations, that demonstrate effectiveness in delivering employment and training services to individuals such as those described in section 503.

"(d) APPLICATION OF SECTION RELATING TO ADMINISTRATIVE ADJUDICATIONS.—Section 166 of this Act, relating to administrative adjudication, shall apply to the distribution of incentive bonus payments under this section.

"SEC. 509. INFORMATION AND DATA COLLECTION. 29 USC 1791h.

"(a) TECHNICAL ASSISTANCE.—In order to facilitate the collection, exchange, and compilation of data and information required by this title, the Secretary shall, within 90 days after the date of enactment of this title, begin providing, on an ongoing basis, technical assistance to the States. Such assistance shall include, at a minimum, cost-effective methods for using State and Federal records to which the Secretary has lawful access. Records.

"(b) REGULATIONS.—The Secretary, the Secretary of Health and Human Services, and the Secretary of the Interior jointly shall issue regulations regarding the sharing, among States participating in the programs under this title, of the data and information necessary to fulfill the requirements of this title. Such regulations shall provide for—

"(1) the maintenance of confidentiality of the information so shared, in accordance with Federal and State privacy laws, and Classified information.

"(2) penalties for any violation of such regulations.

"(c) ANNUAL SURVEY.—The Secretary shall conduct an annual survey of States participating in programs under this title and shall report to the Congress concerning— Reports.

shall include an analysis of the costs of such program and the results of such activities.

"(c) PERFORMANCE STANDARD.— The Secretary shall establish a performance standard which weights performance outcomes under this title to reflect the higher costs incurred in overcoming the substantial barriers to employment experienced by individuals eligible under this title. Not later than 2 years after the first program year, the Secretary shall prepare and submit to the Congress a report on the effect of such standard.". Reports.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Act is amended by inserting after the items relating to title IV the following new items:

"TITLE V—JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE BONUS PROGRAM

"Sec. 501. Statement of purpose.
"Sec. 502. Definitions.
"Sec. 503. Eligibility for incentive bonuses.
"Sec. 504. Additional eligibility requirements.
"Sec. 505. Amount of incentive bonus.
"Sec. 506. Applications and verification required.
"Sec. 507. Payments.
"Sec. 508. Use of incentive bonus funds.
"Sec. 509. Information and data collection.
"Sec. 510. Start-up costs.
"Sec. 511. Evaluation and performance standards.".

SEC. 713. PROVISIONS FOR IMPROVING ASSISTANCE TO HARD-TO-SERVE INDIVIDUALS AND WELFARE RECIPIENTS.

(a) GOVERNORS' INCENTIVE GRANTS.—The first sentence of section 202(b)(3)(B) of the Act (29 U.S.C. 1602(b)(3)(B)) is amended by striking out ", including incentives for serving hard-to-serve individuals" and inserting in lieu thereof "and incentives for serving increased numbers of hard-to-serve individuals, particularly long-term welfare recipients, including title IV of the Social Security Act, relating to aid to families with dependent children, and title XVI of such Act, relating to supplemental security income".

(b) PERFORMANCE STANDARDS.—Section 106(e) of the Act (29 U.S.C. 1516) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall—

"(A) provide improved information and technical assistance on performance standards adjustments;

"(B) collect data that better specifies hard-to-serve individuals and long-term welfare dependency; and

"(C) provide guidance on setting performance goals at the service provider level that encourages increased service to the hard-to-serve, particularly long-term welfare recipients, including title IV of the Social Security Act, relating to aid to families with dependent children, and title XVI of such Act, relating to supplemental security income.

The Secretary shall also reexamine performance standards to ensure that such standards provide maximum flexibility in serving the hard-to-serve, particularly long-term welfare recipients, including title IV of the Social Security Act, relating to aid to families with dependent children, and title XVI of such Act, relating to supplemental security income.".

SEC. 714. CONFORMING AND MISCELLANEOUS AMENDMENTS.

(a) CONTENTS OF JOB TRAINING PLAN.—Section 104(b) of the Act (29 U.S.C. 1514(b)) (as amended by subsection (b)) is further amended—

(1) by redesignating paragraphs (7), (8), (9), (10), and (11) as paragraphs (8), (9), (10), (11), and (12), respectively; and

(2) by adding after paragraph (6) the following new paragraph:

"(2) for an individual who qualifies under section 503(e) shall be the annual amount to which such individual would have been entitled for 1 year at the time of the determination of eligibility of the individual, if such individual has not received the benefits described in section 502(2) for the prior year under title XVI of the Social Security Act, relating to supplemental security income.

29 USC 1791e. "SEC. 506. APPLICATIONS AND VERIFICATION REQUIRED.

"(a) NOTICE OF INTENT TO PARTICIPATE.—Any State seeking to participate in the incentive bonus program established under this title shall notify the Secretary of its intent to do so not later than 30 days before the beginning of its first program year of participation.

"(b) APPLICATION.—(1) Any State seeking to receive an incentive bonus under this title shall submit an application to the Secretary. Such application shall contain or be accompanied by such information and assurances as the Secretary may reasonably require in order to ensure compliance with this title. Each application shall contain, at a minimum—

"(A) the placement bonus base for eligible individuals who serve to qualify the State for an incentive bonus; and

"(B)(i) a brief description of the unsubsidized employment or supported employment of such individuals; or

"(ii) a description of participation in educational activities, as permitted under section 504, by such individuals.

"(2) The application to participate in the incentive bonus program shall be submitted to the Secretary according to a schedule established by the Secretary in order to facilitate and expedite the processing, verification, and prompt payment of incentive bonuses.

"(c) NOTICE OF APPROVAL OR DENIAL.—The Secretary shall inform a State within 60 days after receipt of the application as to whether or not its application has been approved. The Secretary may not approve an application for payment of an incentive bonus without adequately verifying the accuracy of the information contained in the application. There shall be a rebuttable presumption that an individual is eligible to be counted for the purpose of payment of an
102 STAT. 3252 incentive bonus under this title. When appropriate, the Secretary may use a sampling methodology for such verifications in a manner approved by the Comptroller General of the United States.

"(d) SERVICE DELIVERY AREA PARTICIPATION.—Participation by a State in the incentive bonus program established under this title shall not prevent any service delivery area within the State from refusing to participate in such program.

29 USC 1791f. "SEC. 507. PAYMENTS.

"(a) IN GENERAL.—For each program year for which funds are appropriated to carry out this title, the Secretary shall pay to each participating State the amount that State is eligible to receive under this section.

"(b) RATABLE REDUCTIONS.—If the amount so appropriated is not sufficient to pay to each State the amount each State is eligible to receive, the Secretary shall ratably reduce the amount paid to each State.

"(c) RATABLE INCREASES.—If any additional amount is made available for carrying out this title for any program year after the application of the preceding sentence, such additional amount shall be allocated among the States by increasing such payments in the same manner as they were reduced, except that no such State shall be paid an amount which exceeds the amount which it is eligible to receive under this section.

29 USC 1791g. "SEC. 508. USE OF INCENTIVE BONUS FUNDS.

"(a) USE OF INCENTIVE BONUS FUNDS.—After submission and approval of an application for an incentive bonus payment and before receipt of such payment, the Governor of such State may reserve from State funds an amount equal to the amount of a bonus

"(1) the success of such States in gathering the data and information required under this title; and

"(2) methods for improving and refining the ability of such States to gather the data and information required under this title.

29 USC 1791i.

"SEC. 510. START-UP COSTS.

"(a) APPLICATION.—Before notifying the Secretary of an intent to participate in the incentive bonus program established under this title, a State may apply to the Secretary for financial assistance in accordance with this section. Such application shall be submitted to the Secretary not later than 120 days before the beginning of the program year.

"(b) CONTENTS.—Applications submitted under this section shall contain such information as the Secretary may reasonably require.

"(c) DETERMINATIONS OF AWARDS.—(1) The Secretary shall determine the amounts to be awarded based on the need demonstrated in the application submitted by the State.

102 STAT. 3254

"(2) The Secretary shall notify the State of the determination made under this section no later than 60 days after receiving such State's application.

"(3)(A) Funds received by a State under this section shall be available for expenditure for the first 2 program years of such State's participation under this title, beginning with the program year following the program year in which a determination under this section is made. Expenditure of such funds (or any portion thereof) shall be considered an agreement by the State to participate in accordance with this title for a period of not less than 2 consecutive program years, beginning with the first program year in which such funds become available for expenditure.

"(B) Funds awarded to the State which remain unexpended at the end of such 2 program years shall be reallocated by the Secretary to other participating States.

"(C) Funds received under this section by the State shall be used for activities such as those described in section 508(b) and for higher costs incurred in overcoming the substantial barriers to employment experienced by individuals eligible under this title.

"(d) ALLOCATION.—Funds received under this section may be allocated to State agencies or service delivery areas within the State for expenditure in accordance with this title.

"(e) NOTICE OF PROPOSED RULEMAKING.—Not later than 3 months after the date of the enactment of this title, the Secretary shall issue a notice of proposed rulemaking with respect to this title and shall allow not less than 60 days for public comment. Final regulations shall be issued not later than 7 months following such date of enactment.

29 USC 1791j.

"SEC. 511. EVALUATION AND PERFORMANCE STANDARDS.

"(a) EVALUATION.—The Secretary shall conduct or provide for an evaluation of the incentive bonus program authorized under this title. The Secretary shall consider—

"(1) whether the program results in increased service under this Act to long-term welfare recipients and other hard-to-serve individuals;

"(2) whether the program results in sustained employment of such welfare recipients and individuals, with resultant welfare and other cost savings to the Federal Government;

"(3) whether the program is administratively feasible and cost effective;

"(4) whether the services provided to other eligible participants under part A of title II are affected by the implementation and operation of the incentive bonus program; and

"(5) such other factors as the Secretary deems appropriate.

"(b) REPORT TO CONGRESS.—Not later than January 1, 1996, the Secretary shall report to the Congress on the effectiveness of the incentive bonus program authorized under this title. Such report

102 STAT. 3256

"(7) a description of the procedures and methods of carrying out title V, relating to incentive bonus payments for the placement of individuals eligible under such title;".

(b) PERFORMANCE STANDARDS.—Section 106(b) of the Act (29 U.S.C. 1516(b)) is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary shall prescribe performance standards under this section for programs authorized by title V, relating to the placement of individuals eligible under such title, in accordance with the criteria specified in section 511(c).".

(c) PLAN COORDINATION.—Section 121(b) of the Act (29 U.S.C. 1531(b)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by adding after paragraph (2) the following new paragraph:

"(3) The State plan shall include a description of the manner in which the State will encourage the successful carrying out of—

"(A) training activities for eligible individuals whose placement is the basis for the payment to the State of the incentive bonus authorized by title V; and

"(B) the training services, outreach activities, and preemployment supportive services furnished to such individuals.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 3 of the Act (29 U.S.C. 1502) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) Subject to paragraph (2), there are authorized to be appropriated for each of fiscal years 1990 through 1994 such sums as may be necessary to carry out title V.

"(2) No funds appropriated pursuant to this Act may be used to carry out such title for any fiscal year unless funds appropriated to carry out part A of title II exceed any change in the consumer price index from the amounts appropriated for the previous fiscal year to carry out such part.

"(3) From amounts authorized to be appropriated for title V pursuant to paragraph (1), not more than $5,000,000 may be used for purposes of section 510 of such title.".

(e) CONSTRUCTION.—(1) Part D of title I of the Act (29 U.S.C. 1571 et seq.) is amended by adding at the end thereof the following new section:

29 USC 1583.

"SEC. 172. CONSTRUCTION.

"(a) ELIGIBILITY.—Nothing in this Act shall be construed to limit the right of persons to remain eligible for assistance under title XIX of the Social Security Act, relating to Medicaid pursuant to section 1619(b) of such Act.

"(b) USE OF FUNDS.—Nothing in this Act shall be construed to authorize the use of funds under this Act for the ongoing support services provided to handicapped individuals placed in supported employment, as such term is defined in section 7(18) of the Rehabilitation Act of 1973.".

(2) The table of contents of the Act is amended by inserting after the item relating to section 171 the following new item:

102 STAT. 3257

"Sec. 172. Construction.".

TITLE VIII—VETERANS PROGRAMS

SEC. 801. MEDICAL PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Veterans' Administration for each of fiscal years 1989 and 1990, in addition to any funds appropriated pursuant to any other authorization (whether definite or indefinite)

of appropriations for those fiscal years, the sum of $30,000,000 for the medical care of veterans by the Veterans' Administration.

(b) DOMICILIARY CARE.—Of the amount appropriated pursuant to subsection (a), 50 percent shall be available for—

(1) converting to use for domiciliary care beds the underused space located in facilities under the jurisdiction of the Administrator of Veterans' Affairs in urban areas in which there are significant numbers of homeless veterans; and Urban areas.

(2) furnishing domiciliary care in such beds to eligible veterans (primarily homeless veterans) who are in need of such care.

(c) CHRONICALLY MENTALLY ILL HOMELESS VETERANS.—Of the amount appropriated pursuant to subsection (a), 50 percent shall be available for furnishing care and treatment and rehabilitative services under section 115 of the Veterans Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 501) to homeless veterans who have a chronic mental illness disability. Not more than $500,000 of the amount available under the preceding sentence shall be used for the purpose of monitoring the furnishing of such care and services and, in furtherance of such purpose, maintaining in the Veterans' Administration the equivalent of 10 full-time employees.

(d) LIMITATION.—Nothing in this section shall result in the diminution of the conversion of hospital-care beds to nursing-home-care beds by the Veterans' Administration.

TITLE IX—AID TO FAMILIES WITH DEPENDENT CHILDREN; UNEMPLOYMENT COMPENSATION

State and local governments.

SEC. 901. EXTENSION OF PROHIBITION AGAINST IMPLEMENTATION OF CERTAIN PROPOSED REGULATIONS.

Section 9118 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 1383c) is amended by striking "October 1, 1988" and inserting "September 30, 1989".

SEC. 902. REVIEW OF POLICY GOVERNING USE OF AFDC FUNDS TO MEET EMERGENCY NEEDS OF FAMILIES ELIGIBLE FOR AFDC THROUGH EMERGENCY ASSISTANCE OR SPECIAL NEEDS PAYMENTS; REPORT TO CONGRESS.

(a) REVIEW OF POLICY.—The Secretary of Health and Human Services shall review the policies in effect, as of the date of the enactment of this section, with respect to the use by States of amounts paid to such States under the program of aid to families with dependent children under part A of title IV of the Social Security Act, in the form of payments of aid to meet special needs or emergency assistance under section 406(e) of such Act to meet emergency needs of families who are eligible for such aid. 102 STAT. 3258

(b) REPORT TO CONGRESS.—Not later than July 1, 1989, the Secretary of Health and Human Services shall submit to the Congress a report containing recommendations for legislative and regulatory changes designed to—

(1) improve the ability of the program of aid to families with dependent children under part A of title IV of the Social Security Act to respond to emergency needs of families who are eligible for such aid; and

(2) eliminate the use of funds provided to States under such program to pay for the provision of shelter in commercial or similar transient facilities.

SEC. 903. DEMONSTRATION PROJECTS TO REDUCE NUMBER OF HOMELESS AFDC FAMILIES IN WELFARE HOTELS.

Housing. 42 USC 11381 note.

(a) IN GENERAL.—In order to enable States to provide housing for homeless families who are recipients of aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act in transitional facilities instead of in

commercial or similar transient facilities, at least 2 but not more than 3 States may undertake and carry out demonstration projects in accordance with this section. States may use public or private nonprofit agencies in carrying out demonstration projects in accordance with this section. Demonstration projects under this section shall meet such conditions and requirements as the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall prescribe.

(b) DUTIES OF SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary shall—

(1) consider all applications received from States desiring to conduct demonstration projects under this section;

(2) transmit to the Comptroller General for review under subsection (e) a copy of each such application received;

(3) approve at least 2 but not more than 3 applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this section; and

Grants.

(4) make grants from funds appropriated to carry out this section to each State whose application is so approved to carry out the project that is the subject of the application.

(c) PROJECT REQUIREMENTS.—The Secretary shall not approve an application received from a State for a demonstration project under this section unless the State agency that administers the program of aid to families with dependent children in the State under a State plan approved under part A of title IV of the Social Security Act demonstrates that the project will—

(1) provide housing in transitional facilities only to homeless families who are recipients of aid to families with dependent children under the State plan and who reside in commercial or similar transient facilities;

(2) permanently reduce the number of rooms used to house homeless families who are recipients of such aid in commercial or similar transient facilities by the number of units made available in transitional facilities in accordance with paragraph (1); and

(3) provide that the Federal share of the total amount of cash assistance provided under the project to families residing in transitional facilities plus the total amount of grants made to the State under this section must be less than or equal to the Federal share of the cost of housing such families in commercial or similar transient facilities (including payments made to cover basic needs and services of such families).

102 STAT. 3259

(d) USE OF FUNDS.—Each State that receives funds under this section shall use such funds to—

(1) rehabilitate or construct transitional facilities which are easily convertible to permanent housing when such facilities are no longer needed as transitional facilities; and

Reports.

(2) provide on-site social services at such facilities.

(e) GAO REVIEW OF APPLICATIONS.—Within 90 days after the Comptroller General receives from the Secretary a copy of an application submitted under this section, the Comptroller General shall review such application and report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on whether the Federal share of the total amount of cash assistance to be provided under the project which is the subject of the application to families residing in transitional facilities plus the total amount of grants to be made to the State under this section is less than or equal to the Federal share of the cost of housing such families in commercial or similar transient facilities (including payments made to cover basic needs and services of such families).

(f) AUTHORIZATION OF APPROPRIATIONS.—For grants under this section, there is authorized to be appropriated to the Secretary for the fiscal year 1990 not to exceed $20,000,000, which shall remain available until expended.

(g) DEFINITIONS.—As used in section 902 and this section:

(1) HOMELESS FAMILY.—The term "homeless family" means a dependent child or children and the relatives with whom such child or children are living, who—

(A) lack a fixed and regular nighttime address;

(B) have a primary residence that is a shelter designed for temporary accommodation, a hotel, or a motel; or

(C) are living in a place not designed for, or ordinarily used as, a regular sleeping accommodation.

(2) COMMERCIAL OR SIMILAR TRANSIENT FACILITIES.—The term "commercial or similar transient facilities" means transient accommodations in—

(A) a commercial hotel or motel operated by a privately owned for-profit entity; or

(B) a similar establishment which is not a transitional facility (whether or not directly operated or contracted for by the State or a political subdivision or by a not-for-profit organization authorized by the State or political subdivision to provide such accommodations).

(3) TRANSITIONAL FACILITY.—The term "transitional facility" means any facility operated by a State or local government or a nonprofit organization which, at a minimum—

(A) provides temporary and private sleeping accommodations, and temporary eating and cooking accommodations; and

(B) provides services to help families locate and retain permanent housing.

SEC. 904. PREVENTING FRAUD AND ABUSE IN HOUSING AND URBAN DEVELOPMENT PROGRAMS. 42 USC 3544.

(a) DEFINITIONS.—As used in this section: 102 STAT. 3260

(1) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(2) APPLICANT; PARTICIPANT.—The terms "applicant" and "participant" shall have such meanings as the Secretary by regulation shall prescribe, except that such terms shall include members of an applicant's or participant's household, and such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials and officers of lending institutions.

(3) PUBLIC HOUSING AGENCY.—The term "public housing agency" means any agency described in section 3(b)(6) of the United States Housing Act of 1937.

(b) APPLICANT AND PARTICIPANT CONSENT.—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving initial and periodic review of an applicant's or participant's income, and to assure that the level of benefits provided under the program is correct, the Secretary may require that an applicant or participant—

(1) sign a consent form approved by the Secretary authorizing the Secretary, the public housing agency, or the owner responsible for determining eligibility for or level of benefits to request current or previous employers to verify salary and wage information pertinent to the applicant's or participant's eligibility or level of benefits; and

(2) sign a consent form approved by the Secretary authorizing the Secretary or the public housing agency responsible for determining eligibility or level of benefits to request a State agency charged with the administration of the State unemployment law to release wage information with respect to such applicant or participant or information regarding whether such applicant or participant is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such applicant or participant.

This consent form shall not be used to request taxpayer return information protected by section 6103 of the Internal Revenue Code of 1986.

(c) ACCESS TO STATE EMPLOYMENT RECORDS.—

(1) AMENDMENTS TO SOCIAL SECURITY ACT.—(A) Section 303 of the Social Security Act (42 U.S.C. 503) is amended by adding at the end the following new subsection:

"(i)(1) The State agency charged with the administration of the State law—

"(A) shall disclose, upon request and on a reimbursable basis, only to officers and employees of the Department of Housing and Urban Development and to representatives of a public housing agency, any of the following information contained in the records of such State agency with respect to individuals applying for or participating in any housing assistance program administered by the Department who have signed an appropriate consent form approved by the Secretary of Housing and Urban Development—

"(i) wage information, and

"(ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual, and

102 STAT. 3261

"(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to ensure that information disclosed under subparagraph (A) is used only for purposes of determining an individual's eligibility for benefits, or the amount of benefits, under a housing assistance program of the Department of Housing and Urban Development.

Regulations.

"(2) The Secretary of Labor shall prescribe regulations governing how often and in what form information may be disclosed under paragraph (1)(A).

"(3) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he or she is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he or she shall make no future certification to the Secretary of the Treasury with respect to such State.

"(4) For purposes of this subsection, the term 'public housing agency' means any agency described in section 3(b)(6) of the United States Housing Act of 1937.

Termination date.

"(5) The provisions of this subsection shall cease to be effective beginning on October 1, 1994.".

(B) Section 304(a)(2) of the Social Security Act (42 U.S.C. 504(a)(2)) is amended by striking "(e), or (h)" and inserting "(e), (h), or (i)".

(2) APPLICANT AND PARTICIPANT PROTECTIONS.—(A) In order to protect applicants for, and recipients of, benefits under the programs of the Department of Housing and Urban Development from the improper use of information obtained pursuant to the requirements of section 303(i) of the Social Security Act from the State agency charged with the administration of the State unemployment compensation law, officers and employees of the Department of Housing and Urban Development and representatives of public housing agencies may only use such information—

(i) to verify an applicant's or participant's eligibility for or level of benefits; or

(ii) in the case of an owner responsible for determining eligibility for or level of benefits, to inform such owner that an applicant's or participant's eligibility for or level of benefits is uncertain and to request such owner to verify such applicant's or participant's income information.

(B) No Federal, State, or local agency, or public housing agency, or owner responsible for determining eligibility for or level of benefits receiving such information may terminate, deny, suspend, or reduce any benefits of an applicant or participant until such agency or owner has taken appropriate steps to independently verify information relating to—

(i) the amount of the wages or unemployment compensation involved,

(ii) whether such applicant or participant actually has (or had) access to such wages or benefits for his or her own use, and

(iii) the period or periods when, or with respect to which, the applicant or participant actually received such wages or benefits.

(C) Such applicant or participant shall be informed by the agency or owner of the findings made by the agency or owner on the basis of such verified information, and shall be given an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility factors under the program.

(3) PENALTY.—(A) Any person who knowingly and willfully requests or obtains any information concerning an applicant or participant pursuant to the authority contained in section 303(i) of the Social Security Act under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" as used in this paragraph shall include an officer or employee of the Department of Housing and Urban Development, an officer or employee of any public housing agency, and any owner responsible for determining eligibility for or level of benefits (or employee thereof).

(B) Any applicant or participant affected by (i) a negligent or knowing disclosure of information referred to in this section or in section 303(i) of the Social Security Act about such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, such section 303(i), or any regulation implementing this section or such section 303(i), or (ii) any other negligent or knowing action that is inconsistent with this section, such section 303(i), or any such implementing regulation may bring a civil action for damages and such other relief as may be appropriate against any officer or employee of any public housing agency or owner (or employee thereof) responsible for any such unauthorized action. The district court of the United States in the district in which the affected applicant or participant resides, in which such unauthorized action occurred, or in which the applicant or participant alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs.

Courts, U.S.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the provisions of this section shall take effect on September 30, 1989.

(2) OPTIONAL EARLY IMPLEMENTATION.—At the initiative of a State or an agency of the State, and with the approval of the Secretary of Labor, the amendments made by subsection (c)(1) may be made effective in such State on any date before September 30, 1989, which is more than 90 days after the date of the enactment of this section.

(3) REQUIREMENTS FOR STATE AGENCIES.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not consecutive) between the date of the enactment of this Act and September 30, 1989, the amendments made by subsection (c)(1) shall take effect 30 cal-

102 STAT. 3263

endar days after the first day on which such legislature is in session on or after September 30, 1989.

TITLE X—HOUSING AND COMMUNITY DEVELOPMENT TECHNICAL AMENDMENTS

Subtitle A—Housing Assistance

SEC. 1001. INCOME ELIGIBILITY FOR ASSISTED HOUSING.

(a) IN GENERAL.—Section 16(c) of the United States Housing Act of 1937 (42 U.S.C. 1437n(c)) is amended in the first sentence—

(1) by striking ", and" and inserting a comma;

(2) by striking ", as appropriate" and all that follows through "programs" and inserting the following: "an appropriate specific percentage of lower income families other than very-low income families that may be assisted in each assisted housing program"; and

(3) by inserting before the period at the end the following: ", and shall prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence".

(b) CLARIFICATION.—Section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended by inserting before the semicolon at the end the following: "and shall not permit public housing agencies to select families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence".

SEC. 1002. PUBLIC HOUSING CHILD CARE GRANTS.

(a) AVAILABILITY OF CHILD CARE SERVICES IN FACILITIES NEAR PUBLIC HOUSING.—Subsections (a), (b), (c), and (e) of section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z–6 note) are amended by inserting "or near" after "child care services in" each place it appears.

(b) CONFORMING AMENDMENTS.—

(1) ELIGIBLITY FOR ASSISTANCE.—Section 222(b) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z–6 note) is amended—

(A) by striking "in the project" each place it appears and inserting "for the project"; and

(B) in paragraph (2), by inserting "in or near the project" after "facilities".

(2) ALLOCATION OF ASSISTANCE.—Section 222(c)(3) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z–6 note) is amended by striking "established in" and inserting "established for".

SEC. 1003. PUBLIC HOUSING RESIDENT MANAGEMENT.

Section 20 of the United States Housing Act of 1937 (42 U.S.C. 1437r) is amended by adding at the end the following new subsection:

102 STAT. 3264

Contracts.

"(h) APPLICABILITY.—Any management contract between a public housing agency and a resident management corporation that is entered into after the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 shall be subject to this section and the regulations issued to carry out this section.".

SEC. 1004. PROHIBITION OF REDUCTION OF SECTION 8 CONTRACT RENTS.

(a) IN GENERAL.—Section 8(c)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(C)) is amended—

(1) in the first sentence, by striking "as hereinbefore provided" and inserting the following: "under subparagraphs (A) and (B)"; and

(2) by adding at the end the following new sentences: "Any maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to the enactment of this sentence shall be restored to the maximum monthly rent in effect on April 15, 1987. For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents, multiplied by the number of months that the reduced maximum monthly rents were in effect.".

(b) BUDGET COMPLIANCE.—During fiscal year 1989, the amendment made by subsection (a)(2) shall be effective only to such extent or in such amounts as are provided in appropriation Acts. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), to the extent that this section has the effect of transferring an outlay of the United States from one fiscal year to an adjacent fiscal year, the transfer is a necessary (but secondary) result of a significant policy change. 42 USC 1437f note.

SEC. 1005. PROJECT-BASED SECTION 8 ASSISTANCE.

(a) IMPLEMENTATION OF PROGRAM.—To implement the amendment made by section 148 of the Housing and Community Development Act of 1987, the Secretary of Housing and Urban Development shall issue regulations that take effect not later than 30 days after the date of the enactment of this Act. Until the effective date of the regulations, the Secretary of Housing and Urban Development shall consider each application from a public housing agency to attach a contract for assistance payments to a structure, in accordance with the amendment made by such section 148 to section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)), and shall promptly approve such application if it meets the requirements of such section 8(d)(2). Regulations. 42 USC 1437f note. Contracts.

(b) AVAILABILITY IN NEW CONSTRUCTION PROJECTS.—

(1) IN GENERAL.—Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) is amended—

(A) by inserting "(A)" after the paragraph designation;

(B) by striking "(A)" and "(B)" each place it appears and inserting "(i)" and "(ii)", respectively; and

(C) by adding at the end the following new subparagraph:

"(B) The Secretary shall permit any public housing agency to approve the attachment of assistance under subsection (b)(1) with respect to any newly constructed structure if—

102 STAT. 3265

"(i) the owner or prospective owner agrees to construct the structure other than with assistance under this Act and otherwise complies with the requirements of this section; and

"(ii) the aggregate assistance provided by the public housing agency pursuant to this subparagraph and the last sentence of subparagraph (A) does not exceed 15 percent of the assistance provided by the public housing agency.".

(2) REGULATIONS.—To implement the amendments made by this subsection, the Secretary of Housing and Urban Development shall issue regulations that take effect not later than 90 days after the date of the enactment of this Act. 42 USC 1437f note.

(c) RENEWAL OF CONTRACTS.—Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) (as amended by subsection (b) of this section) is further amended by adding at the end the following new subparagraph:

"(C) Any contract for assistance payments that is attached to a structure under this paragraph shall (at the option of the public housing agency but subject to available funds) be renewable for 2 additional 5-year terms, except that the aggregate term of the initial contract and renewals shall not exceed 15 years.".

(d) EXCEPTION TO 15 PERCENT LIMITATION.—

Aged persons.

(1) ALTOONA, PENNSYLVANIA.—The Secretary of Housing and Urban Development, in accordance with paragraph (2) of section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) but without regard to the 15 percent limitation set forth in such paragraph, shall permit the attachment of contracts for assistance payments to the facility located in Altoona, Pennsylvania, that is the Penn Alto Hotel and will include not less than 140 units of housing for the elderly.

(2) MINNEAPOLIS, MINNESOTA.—Any tenant who is on the waiting list for dwellings in the Cedar Square West Project in Minneapolis, Minnesota, or is living in an overcrowded dwelling in the project, shall be given preference for the 250 project-based certificates under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) that, before the date of the enactment of this Act, were offered in settlement for a lawsuit, notwithstanding section 8(d)(1)(A) of such Act. The Secretary of Housing and Urban Development, in accordance with paragraph (2) of section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) but without regard to the 15 percent limitation set forth in such paragraph, shall permit the attachment of contracts for assistance payments to structures to the extent necessary to provide the assistance for such 250 certificates.

Contracts.

SEC. 1006. SECTION 8 ASSISTANCE FOR RESIDENTS OF RENTAL REHABILITATION PROJECTS.

Section 8(u) of the United States Housing Act of 1937 (42 U.S.C. 1437f(u)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) the Secretary shall allocate assistance for certificates or vouchers under this section to ensure that sufficient resources are available to address the physical or economic displacement, or potential economic displacement, of existing tenants pursuant to paragraphs (1) and (2).".

102 STAT. 3266

SEC. 1007. RENTAL REHABILITATION PROGRAM.

(a) ADMINISTRATIVE EXPENSES.—Section 17(h) of the United States Housing Act of 1937 (42 U.S.C. 1437o(h)) is amended to read as follows:

"(h) ADMINISTRATIVE EXPENSES.—(1) Except as provided in paragraph (2), grantees receiving assistance under this section may not deduct therefrom any amounts to cover administrative expenses in carrying out their responsibilities under this section.

"(2) A grantee may use not more than 10 percent of its initial rental rehabilitation grant under subsection (c) for each year to cover administrative expenses in carrying out its responsibilities under this section. Any State shall share the amount provided pursuant to the preceding sentence with units of general local government administering the program with the State."

State and local governments.

(b) CORRECTION OF CROSS-REFERENCE.—Section 17(i)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437o(i)(2)) is amended by striking "section 104(f)" and inserting "section 104(g)".

SEC. 1008. TWEEMILL HOUSE.

The Secretary of Housing and Urban Development shall process the application under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) for project 012-EH347 (Tweemill House) without regard to the cost limits that would otherwise be imposed pursuant to 24 C.F.R. 885.410(a)(1), and the assistance to such project under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) may exceed the fair market rents established under section 8(c)(1) of such Act.

SEC. 1009. HOUSING COUNSELING.

Section 106(a)(2) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(2)) is amended by inserting before the period at the end of the first sentence the following: "or guaranteed or insured under chapter 37 of title 38, United States Code".

SEC. 1010. MULTIFAMILY HOUSING MANAGEMENT AND PRESERVATION.

(a) UNSUBSIDIZED PROJECTS.—Section 203(a)(1)(C) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(a)(1)(C)) is amended by striking ", on the date of assignment, occupied by low- and moderate-income persons" and inserting the following: "occupied by low- and moderate-income persons on the date of assignment or foreclosure (whichever is greater)".

(b) SECTION 8 ASSISTANCE.—The third sentence of section 203(d)(1) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(d)(1)) is amended to read as follows: "Such contracts shall be sufficient to assist (A) all units in multifamily housing projects that are subsidized projects or formerly subsidized projects; (B) in other multifamily housing projects owned by the Secretary, the units that, on the date title to the projects is acquired by the Secretary, are occupied by lower income families eligible for assistance under such section 8 or are vacant (which units shall be made available for such families as soon as possible); and (C) in all other multifamily housing projects, the units that are occupied by lower income families eligible for assistance under such section 8 on the date of assignment or foreclosure (whichever is greater).". Contracts.

(c) RIGHT OF FIRST REFUSAL.—Section 203(e) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(e)) is amended to read as follows: State and local governments.

"(e)(1) Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop a disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, including the initial sales price that is acceptable to the Secretary and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with subsections (a) and (d). The initial sales price shall reflect the value of the project as housing affordable to low- and moderate-income persons for the period required in subsection (d).

"(2) Upon approval of a disposition plan for a project, the Secretary shall notify the local government and the State housing finance agency (or other agency or agencies designated by the Governor) of the terms and conditions of the disposition plan. The local government and the designated State agency shall have 90 days to make an offer to purchase the project.

"(3) The Secretary shall accept an offer that complies with the terms and conditions of the disposition plan. The Secretary may accept an offer that does not comply with the terms and conditions of the disposition plan if the Secretary determines that the offer will further the preservation objectives of subsection (a) by actions that include extension of the duration of low- and moderate-income affordability restrictions or otherwise restructuring the transaction in a manner that enhances the long-term affordability for low- and moderate-income persons. The Secretary shall, in particular, have discretion to reduce the initial sales price in exchange for the extension of low- and moderate-income affordability restrictions beyond the 15-year period contemplated by the attachment of assistance pursuant to subsection (d)(1). If the Secretary and the local government or designated State agency cannot reach agreement within 90 days, the Secretary may offer the project for sale to the general public.

"(4) The Secretary shall prohibit any local government or designated State agency from transferring projects acquired under a right of first refusal under this subsection to a private entity, unless the local government or designated State agency solicits proposals from such entities through a public process. The solicitation of proposals shall be based on prescribed criteria, which shall include

the extension of low- and moderate-income affordability restrictions beyond the 15-year period contemplated by the attachment of assistance pursuant to subsection (d)(1).

"(5) Notwithstanding any other provision of law to the contrary, a local government (including a public housing agency) or designated State agency may purchase a subsidized or formerly subsidized project in accordance with this subsection.".

(d) DEFINITION OF SUBSIDIZED PROJECT.—Section 203(i)(2)(E) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(i)(2)(E)) is amended by striking "(other" and all that follows and inserting "(excluding payments made for certificates under subsection (b)(1) or vouchers under subsection (o)), if (except for purposes of paragraphs (1) and (2) of subsection (h) and section 183(c) of the Housing and Community Development Act of 1987) such housing assistance payments are made to more than 50 percent of the units in the project.".

(e) DATE OF ASSIGNMENT.—Section 203(i) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(i)) is amended by adding at the end the following new paragraph:

102 STAT. 3268

"(4) For purposes of subsection (a)(1)(C) and subsection (d)—

"(A) the term 'date of assignment' means the date of assignment, without regard to whether such date occurs before, on, or after February 5, 1988; and

"(B) in the case of a multifamily housing project assigned before the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 and for which there are no records identifying the number of low- and moderate-income persons occupying units in the project on the date of assignment, the number of low- and moderate-income persons occupying units in the project within 120 days of such date of enactment shall be used instead.".

(f) ANNUAL REPORT ON RIGHT OF FIRST REFUSAL.—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11) is amended by adding at the end the following new subsection:

"(k) The Secretary shall annually submit to the Congress a report describing the activities carried out under subsection (e) during the preceding year.".

SEC. 1011. MULTIFAMILY HOUSING CAPITAL IMPROVEMENTS ASSISTANCE.

(a) AMOUNTS AVAILABLE.—Section 201(j)(4) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(j)(4)) is amended—

(1) by striking "may use not more than $50,000,000" and inserting the following: "shall, to the extent of approvable applications and subject to paragraph (1), use not less than $30,000,000 or 40 percent (whichever is less) of the amounts available"; and

(2) by adding at the end the following new sentence: "Any amount reserved under this paragraph for assistance for capital improvements that is not used before the last 60 days of a fiscal year shall become available for other assistance under this section.".

Regulations. 12 USC 1715z-1a note.

(b) IMPLEMENTATION OF PROGRAM.—To implement the amendments made by section 185 of the Housing and Community Development Act of 1987, the Secretary of Housing and Urban Development shall issue regulations that become effective not later than February 5, 1989.

42 USC 1437f note

SEC. 1012. USE OF FUNDS RECAPTURED FROM REFINANCING STATE FINANCE PROJECTS.

(a) IN GENERAL.—In the case of any State financed project that was provided a financial adjustment factor under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) and is being

refinanced, 50 percent of the amounts that are recaptured from the project shall be made available to the State housing finance agency in the State where the project is located for use in providing decent, safe, and sanitary housing affordable to very low-income families or persons.

(b) BUDGET COMPLIANCE.—Subsection (a) shall be effective only to such extent or in such amounts as are provided in appropriation Acts.

SEC. 1013. PUBLIC HOUSING LEASE AND GRIEVANCE PROCEDURES.

The Secretary of Housing and Urban Development shall publish a notice providing that the final rule of the Department of Housing and Urban Development entitled "Public Housing—Tenancy and Administrative Grievance Procedure" and published in the Federal Register of August 30, 1988 (53 Fed. Reg. 33216 et seq.) shall be interim for effect. The Secretary shall afford interested persons an opportunity to comment on the rule in accordance with section 553(c) of title 5, United States Code, and such comment period shall continue for not less than 60 days, or until March 1, 1989, whichever occurs later.

SEC. 1014. EXCEPTIONS TO TENANT PREFERENCE PROVISIONS.

(a) PUBLIC HOUSING.—

(1) IN GENERAL.—Section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) (as amended by section 1001(b) of this Act) is further amended—

(A) by inserting "(i)" after ", but"; and

(B) by inserting before the semicolon at the end the following: "; and (ii) the public housing agency may provide for circumstances in which families who do not qualify for any preference established in this subparagraph are provided assistance before families who do qualify for such preference, except that not more than 10 percent of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this clause) may be families who do not qualify for such preference".

(2) INDIAN HOUSING.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by paragraph (1) shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority. 42 USC 1437d note.

(b) SECTION 8 ASSISTANCE.—Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended—

(1) by inserting "(i)" after "except that"; and

(2) by inserting before the semicolon at the end the following: "; and (ii) the public housing agency may provide for circumstances in which families who do not qualify for any preference established in clause (i) are provided assistance before families who do qualify for such preference, except that not more than 10 percent (or such higher percentage determined by the Secretary to be necessary to ensure that public housing agencies can assist families in accordance with subsection (u)(2) or determined by the Secretary to be appropriate for other good cause) of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this clause) may be families who do not qualify for such preference".

(c) HOUSING VOUCHERS.—Section 8(o)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)) is amended by adding at the end the following new sentence: "A public housing agency may provide for circumstances in which families who do not qualify for any preference established in the preceding sentence are provided assistance under this subsection before families who do qualify for

102 STAT. 3270

such preference, except that not more than 10 percent (or such higher percentage determined by the Secretary to be necessary to ensure that public housing agencies can assist families in accordance with subsection (u)(2) or determined by the Secretary to be appropriate for other good cause) of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this sentence) may be families who do not qualify for such preference.".

Subtitle B—Preservation of Low Income Housing

SEC. 1021. NOTICE OF INTENT.

Section 222 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended in the last sentence by striking "notice or intent" and inserting "notice of intent".

SEC. 1022. PLAN OF ACTION.

(a) PROVISION OF INFORMATION.—Section 223(a) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended by inserting before the period at the end of the first sentence the following: ", and any relevant market area and demographic information that the Secretary has custody of and that the owner may use in preparing the plan".

(b) CONTENTS OF PLAN.—Section 223 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended by adding at the end the following new subsection:

"(d) AUTHORITY TO LIMIT CONTENTS OF PLAN.—The Secretary shall limit the amount of appraisal, market area, and demographic information required under this section in the case of a plan of action requesting incentives.".

SEC. 1023. INCENTIVES TO EXTEND LOW INCOME USE.

Contracts.

Section 224(b) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended in the matter preceding paragraph (1) by striking "Such agreements" and inserting the following: "Agreements entered into under subsection (a) that by modifications to the existing regulatory agreement or mortgage extend the low income affordability restrictions through the term of the mortgage or, in the case of the prepayment of a mortgage, by a recorded instrument impose low income affordability restrictions (including the obligations specified in the regulatory agreement) through a period equivalent to the term of the original mortgage".

SEC. 1024. CRITERIA FOR APPROVAL OF PLAN OF ACTION.

Section 225(a)(1) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended—

(1) by inserting after "economic hardship for current tenants" the following: "(and will not in any event result in (A) a monthly rental payment by a current tenant that exceeds 30 percent of the monthly adjusted income of the tenant or an increase in the monthly rental payment in any year that exceeds 10 percent (whichever is lower), or (B) in the case of a current tenant who already pays more than such percentage, an

102 STAT. 3271

increase in the monthly rental payment in any year that exceeds the increase in the Consumer Price Index or 10 percent (whichever is lower))"; and

(2) by inserting before the semicolon at the end the following: ", determined without regard to the availability of Federal housing assistance that would address any such hardship or involuntary displacement".

SEC. 1025. MODIFICATION OF EXISTING REGULATORY AGREEMENTS.

(a) CORRECTION OF CROSS-REFERENCE.—Section 228(a)(5) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l

note) is amended by striking "section 225(b)(6)" and inserting "section 225(b)(3)(F)".

(b) CORRECTION OF TYPOGRAPHICAL ERROR.—Section 228(a) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended by inserting a period at the end.

SEC. 1026. REPORT ON NOTICE TO TENANTS AND INCENTIVES.

Section 232 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended by adding at the end the following new sentence: "The report shall also include a detailed description of (1) the actions taken by the Secretary to ensure meaningful participation by affected tenants; and (2) the incentives developed by the Secretary under section 224 to ensure compliance with this subtitle.".

SEC. 1027. DEFINITION OF ELIGIBLE LOW INCOME HOUSING.

Section 233(1)(A)(iii) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended by inserting "or a State or State agency" after "Secretary".

SEC. 1028. RURAL RENTAL HOUSING DISPLACEMENT PREVENTION.

(a) ASSISTANCE AVAILABLE TO BORROWER.—Section 502(c)(4)(B)(iv) of the Housing Act of 1949 (42 U.S.C. 1472(c)(4)(B)(iv)) is amended by striking "paragraphs (7) and (8) of section 515(b)" and inserting "paragraphs (1) and (2) of section 515(c)".

(b) SELECTION OF PURCHASERS.—Section 502(c)(5)(B) of the Housing Act of 1949 (42 U.S.C. 1472(c)(5)(B)) is amended by adding at the end the following new clause:

"(iii) SELECTION OF QUALIFIED PURCHASER.—The Secretary shall promulgate regulations that establish criteria for selecting a qualified nonprofit organization or public agency to purchase housing and related facilities when more than 1 such organization or agency has made a bona fide offer. Such regulations shall give a priority to those organizations or agencies with the greatest experience in developing or managing low income housing or community development projects and with the longest record of service to the community.". Regulations.

(c) DEFINITIONS OF NONPROFIT ORGANIZATIONS.—Section 502(c)(5)(I) of the Housing Act of 1949 (42 U.S.C. 1472(c)(5)(I)) is amended to read as follows:

"(I) DEFINITIONS.—For purposes of this paragraph:

"(i) LOCAL NONPROFIT ORGANIZATION.—The term 'local nonprofit organization' means a nonprofit organization that—

"(I) has a broad based board reflecting various interests in the community or trade area; and

"(II) is a not-for-profit charitable organization whose principal purposes include developing or managing low income housing or community development projects.

"(ii) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means any private organization—

"(I) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(II) that is approved by the Secretary as to financial responsibility; and

"(III) that does not have among its officers or directorate persons or parties with a material interest (or persons or parties related to any person or party with such an interest) in loans financed under section 515 that have been prepaid.".

SEC. 1029. SECTION 8 LOAN MANAGEMENT PROGRAM.

(a) REPEAL OF 15-YEAR TERM REQUIREMENT.—Section 8(v) of the United States Housing Act of 1937 (42 U.S.C. 1437f(v)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraph (2) as paragraph (1).

(b) EXECUTION OF NEW CONTRACTS.—Section 8(v)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(v)(1)) (as so redesignated by subsection (a) of this section) is amended by inserting "for project-based loan management assistance" after "new contract".

(c) AVAILABILITY OF ASSISTANCE FOR UNSUBSIDIZED PROJECTS.—Section 8(v) of the United States Housing Act of 1937 (42 U.S.C. 1437f(v)) (as amended by subsection (a) of this section) is further amended by adding at the end the following new paragraph:

"(2)(A) The eligiblity of a multifamily residential project for loan management assistance under this section shall be determined without regard to whether the project is subsidized or unsubsidized.

"(B) In allocating loan management assistance under this section, the Secretary may give a priority to any project only on the basis that the project has serious financial problems that are likely to result in a claim on the insurance fund in the near future or the project is eligible to receive incentives under subtitle B of the Emergency Low Income Housing Preservation Act of 1987.".

Subtitle C—Rural Housing

SEC. 1041. IMPLEMENTATION OF GUARANTEED LOAN DEMONSTRATION.

Regulations.

(a) IN GENERAL.—Section 304(a) of the Housing and Community Development Act of 1987 (42 U.S.C. 1472 note) is amended by adding at the end the following: "To implement this section, the Secretary shall issue regulations that take effect not later than 120 days after the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.".

(b) CLARIFICATION.—Section 304 of the Housing and Community Development Act of 1987 (42 U.S.C. 1472 note) is amended by adding at the end the following new subsection:

"(f) RELATION TO OTHER LAW.—Section 502(d), and the second sentence of section 517(e), of the Housing Act of 1949 shall not apply to this section.".

102 STAT. 3273

42 USC 1472 note.

(c) APPLICABILITY.—The amendments made by this section shall apply to fiscal year 1989 and each succeeding fiscal year.

SEC. 1042. SECTION 515 RENTS.

Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by striking subsection (h).

SEC. 1043. AVAILABILITY OF DOMESTIC FARM LABOR HOUSING FOR OTHER FAMILIES.

(a) INSURED LOAN PROGRAM.—Section 514 of the Housing Act of 1949 (42 U.S.C. 1484) is amended by adding at the end the following new subsection:

"(i) Housing and related facilities constructed with loans under this section may be used for tenants eligible for occupancy under section 515 if the Secretary determines that—

"(1) there is no longer a need in the area for farm labor housing; or

"(2) the need for such housing in the area has diminished to the extent that the purpose of the loan, providing housing for domestic farm labor, can no longer be met.".

(b) GRANT PROGRAM.—Section 516 of the Housing Act of 1949 (42 U.S.C. 1486) is amended by adding at the end the following new subsection:

"(j) Housing and related facilities constructed with grants under this section may be used for tenants eligible for occupancy under section 515 if the Secretary determines that—

"(1) there is no longer a need in the area for farm labor housing; or

"(2) the need for such housing in the area has diminished to the extent that the purpose of the grant, providing housing for domestic farm labor, can no longer be met.".

are not under the direct control of State or local educational agencies) expended for special education and related services provided to handicapped children under this part and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Secretary may waive in part the requirement of this subparagraph if the Secretary concurs with the evidence provided by the State;";

(7) in subsection (a)(12), by striking "administrators of programs" and all that follows through the semicolon at the end and inserting the following: "administrators of programs for handicapped children, which—

"(A) advises the State educational agency of unmet needs within the State in the education of handicapped children,

Public information.

"(B) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under this part, and

"(C) assists the State in developing and reporting such data and evaluations as may assist the Secretary in the performance of the responsibilities of the Secretary under section 618;";

102 STAT. 3293

(8) in subsection (a)(13), by striking "appropriate State and local agencies" and all that follows through the period at the end and inserting the following: "appropriate State and local agencies to—

"(A) define the financial responsibility of each agency for providing handicapped children and youth with free appropriate public education, and

"(B) resolve interagency disputes, including procedures under which local educational agencies may initiate proceedings under the agreement in order to secure reimbursement from other agencies or otherwise implement the provisions of the agreement; and";

(9) in subsection (a)(14)—

(A) by inserting "set forth" after the paragraph designation; and

(B) in subparagraph (A), by striking "he or she is" and inserting "such personnel are";

(10) in subsection (c)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by inserting "(1)" after the subsection designation;

(C) by indenting the first line of the matter following subparagraph (B) (as redesignated by paragraph (1) of this subsection) 2 ems to the right and designating such matter as paragraph (2); and

(D) by striking "the preceding sentence" where it appears in paragraph (2) (as designated by subparagraph (C) of this paragraph) and inserting "paragraph (1)";

(11) in subsection (d)(3)(A), by striking "his" and inserting "the Secretary's";

(12) in subsection (d)(3)(B)—

(A) by striking "he" and inserting "the Secretary"; and

(B) by striking "his" and inserting "the Secretary's";

(13) in subsection (d)(3)(C), by striking "his" in the first sentence and inserting "the Secretary's"; and

(14) in subsection (e), by striking "; and" at the end and inserting a period.

(d) LOCAL EDUCATIONAL AGENCY APPLICATIONS.—Section 614 of the Education of the Handicapped Act (20 U.S.C. 1414) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) provide satisfactory assurance that—

"(A) the control of funds provided under this part, and title to property derived from such funds, shall be in a public agency for the uses and purposes provided in this

SEC. 1044. RURAL RENTAL REHABILITATION DEMONSTRATION.

Section 311(b) of the Housing and Community Development Act of 1987 (42 U.S.C. 1490m note) is amended—

(1) by striking "provided to" and inserting "provided in"; and

(2) by inserting before the period at the end the following: ", including areas located in States where the Secretary administers the rental rehabilitation grant program".

SEC. 1045. LEGAL REPRESENTATION IN LITIGATION INVOLVING COLLECTION OF CLAIMS AND OBLIGATIONS ARISING OUT OF RURAL HOUSING PROGRAMS.

Section 510(d) of the Housing Act of 1949 (42 U.S.C. 1480(d)) is amended by inserting before the semicolon at the end the following: "; except that—

"(1) prosecution and defense of any litigation under section 502 shall be conducted, at the discretion of the Secretary, by—

"(A) the United States attorneys for the districts in which the litigation arises and any other attorney that the Attorney General may designate under law, under the supervision of the Attorney General;

"(B) the General Counsel of the Department of Agriculture; or

"(C) any other attorney with whom the Secretary enters into a contract after a determination by the Secretary that— Contracts.

"(i) the attorney will provide competent and cost-effective representation for the Farmers Home Administration; and

"(ii) representation by the attorney will either (I) accelerate the process by which a family or person eligible for assistance under section 502 will be able to purchase and occupy the housing involved; or (II) preserve the quality of the housing involved; and

"(2) the Secretary shall annually submit to the Congress a report describing activities carried out under paragraph (1)(C), including the cost of entering into contracts with such attorneys and the savings resulting from expedited foreclosure proceedings". Reports.

Subtitle D—Mortgage Insurance and Secondary Mortgage Market Programs

SEC. 1061. CHANGE IN DEFINITION OF VETERAN.

Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)) is amended to read as if the amendment made by section 405(l) of the Housing and Community Development Act of 1987 (101 Stat. 1899) to section 203(b)(3)(2) of the National Housing Act had been made instead to section 203(b)(2) of the National Housing Act.

SEC. 1062. LIMITATION ON USE OF SINGLE FAMILY MORTGAGE INSURANCE BY INVESTORS.

(a) EXEMPTION FROM OCCUPANCY REQUIREMENT.—Section 203(g)(3) of the National Housing Act (12 U.S.C. 1709(g)(3)) is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(F) a mortgagor that, pursuant to section 223(a)(7), is refinancing an existing mortgage insured under this Act for not more than the outstanding balance of the existing mortgage, if the amount of the monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed.".

(b) CORRECTION OF CONFORMING AMENDMENT.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended to read as if the amendment made by section 406(b)(1)(B) of the Housing and Community Development Act of 1987 (101 Stat. 1900) had deleted instead the following: "to be occupied as the principal residence of the owner".

SEC. 1063. PROCEDURES APPLICABLE TO ASSUMPTION OF INSURED MORTGAGES.

(a) CREDIT REVIEWS.—Section 203(r)(2) of the National Housing Act (12 U.S.C. 1709(r)(2)) is amended by striking "date on which the mortgage is endorsed for insurance" each place it appears and inserting "date on which the mortgage is executed".

(b) EFFECTIVE DATE.—Section 407(a)(2) of the Housing and Community Development Act of 1987 is amended to read as follows:

12 USC 1709 note.

102 STAT. 3275

"(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to each mortgage originated pursuant to an application for commitment for insurance signed by the applicant on or after December 1, 1986.".

SEC. 1064. PAYMENT OF CLAIMS ON LOSSES FROM PREFORECLOSURE SALES.

(a) IN GENERAL.—The second sentence of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by striking ", and (2)" and inserting the following: ", or (B) upon the sale of the insured property by the mortgagor after default, if (i) the sale has been approved by the Secretary, (ii) the mortgagee receives an amount at least equal to the fair market value of the property (with appropriate adjustments), as determined by the Secretary, and (iii) the mortgagor has received appropriate homeownership counseling, as determined by the Secretary; and (2)".

(b) CONFORMING AMENDMENTS.—

(1) APPLICABILITY.—Section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended in the third sentence by striking "the effective date of this sentence" and inserting the following: "November 30, 1983 (on or after the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, with respect to the payment of benefits under clause (1)(B) of the preceding sentence),".

(2) CROSS-REFERENCES.—

(A) Section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended immediately before the first proviso in the fifth sentence by striking "foreclosure".

(B) Section 204(j) of the National Housing Act (12 U.S.C. 1710(j)) is amended by inserting "clause (1)(A) of" before "the second sentence".

12 USC 1710 note.

(c) REGULATIONS.—In developing regulations to carry out the amendments made by this section, the Secretary of Housing and Urban Development may delegate to mortgagees the authority to make determinations on behalf of the Secretary, and the Secretary shall rely on certifications and post audit reviews to the greatest extent possible.

SEC. 1065. MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS.

Section 247 of the National Housing Act (12 U.S.C. 1715z-12), as similarly amended first by the Department of Housing and Urban Development-Independent Agencies Act, 1988 (101 Stat. 1329-191) and later by subsections (a) and (b) of section 413 of the Housing and Community Development Act of 1987 (101 Stat. 1906), is amended to read as if the later amendment had not been enacted.

SEC. 1066. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION.

(a) DEFINITIONS.—Section 255(b)(3) of the National Housing Act (12 U.S.C. 1715z-20(b)(3)) is amended by inserting "Depository" before "Institutions".

(b) ELIGIBILITY REQUIREMENTS.—Section 255(d)(3) of the National Housing Act (12 U.S.C. 1715z-20(d)(3)) is amended by striking "and that" and all that follows through "residence".

102 STAT. 3276

SEC. 1067. RECIPROCITY IN APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES.

Section 535 of the Housing Act of 1949 (42 U.S.C. 1490o) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsections:

"(b) For purposes of complying with subsection (a), the Secretary of Housing and Urban Development shall consider the issuance by the Administrator of Veterans' Affairs of a certificate of reasonable value for 1 or more properties in a subdivision to be an administrative approval for the entire subdivision. This subsection shall not apply after the expiration of the 1-year period beginning on the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988. Termination date.

"(c) Before the expiration of the period referred to in subsection (b), the Secretary of Housing and Urban Development shall report to the Congress on housing subdivision approval policies and practices, if any, of the Departments of Housing and Urban Development and Agriculture and the Veterans' Administration. The report shall focus on the administration of environmental laws in connection with any such policies and practices, and shall recommend any statutory, regulatory, and administrative changes needed to achieve total reciprocity for such housing subdivision approvals. The Secretary of Housing and Urban Development shall consult with the foregoing agencies, and such other agencies as the Secretary selects, in preparing the report.". Reports.

SEC. 1068. PERMANENT AUTHORITY TO PURCHASE SECOND MORTGAGES ON MULTIFAMILY PROPERTIES.

(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—Section 302(b)(5)(A)(ii) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(5)(A)(ii)) is amended by striking "until October 1, 1985,".

(b) FEDERAL HOME LOAN MORTGAGE CORPORATION.—Section 305(a)(4)(A)(ii) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(4)(A)(ii)) is amended by striking "until October 1, 1985,".

Subtitle E—Community Development and Miscellaneous Programs

SEC. 1081. CITY AND COUNTY CLASSIFICATIONS.

(a) METROPOLITAN CITY.—

(1) RETENTION OF CLASSIFICATION.—Section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) is amended in the second sentence—

(A) by striking "the population data of the 1980 decennial census" and inserting "a decrease in population"; and

(B) by inserting "or any subsequent fiscal year" after "1983".

(2) DEFERRAL OF CLASSIFICATION.—Section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)), as similarly amended first by the Department of Housing and Urban Development-Independent Agencies Act, 1988 (101 Stat. 1329-193) and later by section 503(a)(2) of the

102 STAT. 3277

Housing and Community Development Act of 1987 (101 Stat. 1923), is amended to read as if the later amendment had not been enacted.

(b) URBAN COUNTY.—Section 102(a)(6)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(A)) is amended by striking the last comma in clauses (i) and (ii)(I) and inserting a semicolon.

SEC. 1082. CORRECTIONS TO CROSS-REFERENCES.

(a) DEFINITIONS.—

(1) INCLUSION OF POPULATION IN URBAN COUNTY.—Section 102(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(d)) is amended by striking "subsection (a)(6)(B)" and inserting "subparagraph (A)(ii) or (D) of subsection (a)(6)".

(2) EXCLUSION OF POPULATION FROM URBAN COUNTY.—The first sentence of section 102(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(e)) is amended by striking "subsection (a)(6)(B)(i)" and inserting "subsection (a)(6)(A)(ii)(I)(a)".

(b) REALLOCATION OF AMOUNTS.—Section 106(c)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(c)(1)) is amended—

(1) in the first sentence, by striking "section 104 (a), (b), or (c)" and inserting "subsection (a), (b), (c), or (d) of section 104";

(2) in the first sentence by striking "section 104(d)" and inserting "section 104(e)"; and

(3) in subparagraph (B), by striking "section 104(d)" and inserting "section 104(e)".

(c) ALLOCATIONS TO STATES.—Section 106(d)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)(3)) is amended—

(1) in subparagraph (C), by striking "subsection (a) or (b)" and inserting "subsection (a), (b), or (d)"; and

(2) in subparagraphs (C) and (D), by striking "section 104(d)" each place it appears and inserting "section 104(e)".

SEC. 1083. CONSERVING NEIGHBORHOODS AND HOUSING BY PROHIBITING DISPLACEMENT.

State and local governments.
42 USC 5304.

(a) CERTIFICATIONS.—The third sentence of section 104(d)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 4304(d)(1)) is amended to read as follows: "A unit of general local government receiving amounts from a State under section 106(d) shall so certify to the State, and a unit of general local government receiving amounts from the Secretary under section 106(d) shall so certify to the Secretary.".

(b) PLAN REQUIREMENTS.—Section 104(d)(2)(A)(iii)(II) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(d)(2)(A)(iii)(II)) is amended by adding "and" at the end.

SEC. 1084. URBAN DEVELOPMENT ACTION GRANTS.

(a) USE OF REPAID GRANT FUNDS.—Section 119(f) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(f)) is amended in the penultimate sentence by striking "section 104" and inserting "section 105".

(b) CONSIDERATION OF CERTAIN COUNTIES AS CITIES.—Section 119(n)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(n)(1)), as similarly amended first by the provisions made effective by section 101(g) of Public Law 99-500 and Public Law 99-591 (100 Stat. 1783-242 and 3341-242) and later by section 515(a) of the Housing and Community Development Act of 1987 (101 Stat. 1934), is amended to read as if the later amendment had not been enacted.

102 STAT. 3278

SEC. 1085. NEIGHBORHOOD REINVESTMENT CORPORATION.

Section 604(a)(6) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8103(a)(6)) is amended by striking the second of the two periods at the end.

SEC. 1086. NATIONAL FLOOD INSURANCE PROGRAM.

(a) CORRECTION OF TYPOGRAPHICAL ERROR.—Section 1306(c)(1)(A) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(1)(A)) is amended by striking "Following" each place it appears in clauses (i) and (ii) and inserting "following".

(b) CORRECTION OF CROSS-REFERENCE.—Subsections (b) and (c) of section 1370 of the National Flood Insurance Act of 1968 (42 U.S.C. 4121) are each amended by striking "paragraph (1)" and inserting "subsection (a)(1)".

(c) SACRAMENTO, CALIFORNIA.—

(1) FINDINGS.—The Congress finds that—

(A) the Sacramento, California, area has had in place a flood control system that has been classified as protecting against floods with recurrence intervals of up to 125 years;

(B) local governmental entities in the Sacramento metropolitan area have been working diligently with the State of California, the Army Corps of Engineers, and the Bureau of Reclamation since the occurrence of a heavy storm in 1986 to formulate and implement a comprehensive plan to provide high level, efficient flood protection to the region;

(C) the Federal Emergency Management Agency, in response to studies by the Army Corps of Engineers indicating increased flood vulnerability attributable to increased estimates of the frequency of large storms in the region, has begun a process of re-analyzing the flood risks in the Sacramento area, and this analysis is likely to result in substantially increased flood elevation requirements under the National Flood Insurance Program;

(D) changed flood elevation requirements attributable to a change in flood elevation determinations by the Director of the Federal Emergency Management Agency will cause severe disruption in the Sacramento region and could precipitate the break-up of the political, institutional, and economic relationships sustaining the high level, comprehensive, flood protection effort;

(E) failure to implement a comprehensive plan would leave substantial portions of the Sacramento area without necessary flood protection, and, further, could impose on the Federal Government various, substantial costs related to emergency responses and damage claims in the event of a major flood;

(F) the Federal purposes embodied in the National Flood Insurance Program to minimize development in flood plains, to minimize damages caused by floods, and to reduce requirements for costly flood protection projects remain valid for the Sacramento metropolitan area, and impose upon its local governmental jurisdictions an obligation to exercise their authorities to avoid undue exposure to the dangers of floods and to voluntarily comply to the maximum extent practicable, consistent with other purposes of this subsection, with the National Flood Insurance Program standards that are anticipated to be applicable to the Sacramento area following expiration of the period set by paragraph (2);

102 STAT. 3279

(G) the City and County of Sacramento have each provided assurances to the Congress that they will not designate any increases in urbanization beyond lands already so designated in their general plans during the period set forth in paragraph (2), and, in addition, that in the exercise of their discretion to approve new development they will give careful consideration to—

(i) an evacuation-emergency response plan;

(ii) mechanisms by which to attempt to provide notice to all buyers of new structures;

(iii) retention of natural floodways; and

(iv) recommendations to all buyers of new structures to purchase flood insurance;

(H) the City and County of Sacramento, in their discretion, reserve the authority to impose elevation or other requirements for new construction based upon best available flood data if facts indicate the necessity of doing so; and

(I) maintenance of the Federal flood elevation requirements now in effect for the Sacramento area for the limited period set forth in paragraph (2) will facilitate implementation of the high level, comprehensive plan for flood protection in the Sacramento area, and is therefore in the interest of Sacramento, the public safety, and the United States.

Rivers and harbors.

(2) FLOOD ELEVATIONS.—Prior to the expiration of 2 years after the date on which the Secretary of the Army submits to the Congress the report on the feasibility study on Northern California Streams, American River Watershed, but not later than 4 years after the date of the enactment of this Act, the provisions of the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 shall apply on the basis of flood map elevation determinations made by the Director of the Federal Emergency Management Agency in effect as of the date of the enactment of this Act to the following areas:

(A) the floodplain areas within Sutter and Sacramento Counties, California (collectively known as the "Natomas area"), which are bounded by the Sacramento River, the American River, the Natomas Cross Canal, and the floodplain of the Natomas East Main Drainage Canal;

(B) the floodplains within Sacramento County of Dry Creek, Arcade Creek, and Morrison Creek, to the extent these creeks are affected by the American and Sacramento Rivers, the American River, and the Sacramento River upstream of the City of Freeport, California; and

(C) the City of West Sacramento in Yolo County, California.

President of U.S.

(3) BUDGET SUBMISSION.—The President, in submitting his budget for fiscal year 1990, shall include a schedule for completing the study referred to in paragraph (2) as expeditiously as practicable and an estimate of the resources required to meet such schedule.

102 STAT. 3280

(d) PLANADA, CALIFORNIA.—The Director of the Federal Emergency Management Agency shall prepare, or cause to be prepared, a hydrological study of Miles Creek, California, to use as the basis for the establishment of revised base flood elevations in and near the community of Planada, California. Until such time as the revised base flood elevations are established, the flood insurance rate map (Community Panel No. 0601880315A) in effect on September 1, 1988, for the area in and near such community shall remain in effect.

SEC. 1087. HOME MORTGAGE DISCLOSURE.

(a) APPLICABILITY OF 1987 AMENDMENTS.—Section 565(a)(4) of the Housing and Community Development Act of 1987 (12 U.S.C. 2802 note) is amended by striking "calendar years beginning after December 31, 1986" and inserting "the portion of calendar year 1988 that begins August 19, 1988, and to each calendar year beginning after December 31, 1988".

(b) CORRECTION OF TYPOGRAPHICAL ERROR.—Paragraphs (1) and (2) of section 306(b) of the Home Mortgage Disclosure Act (12 U.S.C. 2805) are each amended by striking "Section" and inserting "section".

(c) CORRECTION OF REFERENCES TO COMMITTEES.—Section 307(b) of the Home Mortgage Disclosure Act (12 U.S.C. 2806) is amended—

(1) by striking "Committee on Banking, Currency and Housing" and inserting "Committee on Banking, Finance and Urban Affairs"; and

(2) by inserting a comma after "Housing".

SEC. 1088. LEAD-BASED PAINT POISONING PREVENTION.

Public health and safety.

(a) INSPECTION.—Section 302(d)(1) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)(1)) is amended—

(1) by striking the paragraph caption and inserting the following: "TRANSITIONAL TESTING AND ABATEMENT IN PUBLIC HOUSING RECEIVING CIAP ASSISTANCE.—";

(2) by striking "section 9" in the first sentence and inserting "section 14";

(3) by striking subparagraphs (A), (B), and (C) in the first sentence and inserting the following:

"(A) a random sample of dwellings and common areas in all public housing projects assisted under such section; and

"(B) each dwelling in any public housing project in which there is a dwelling determined under subparagraph (A) to have lead-based paint hazards, except that the Secretary shall not require the inspection of each dwelling if the Secretary requires the abatement of the lead-based paint hazards for the surfaces of each dwelling in the public housing project that correspond to the surfaces in the sample determined to have such hazards under subparagraph (A).";

(4) by striking the second and third sentences and inserting the following: "The Secretary shall require the inspection of all housing subject to this paragraph in accordance with the modernization schedule. A public housing agency may elect to test for lead-based paint using atomic absorption spectroscopy and may elect to abate lead-based paint and dust containing lead under standards more stringent than that in subsection (c), including the abatement of lead-based paint and dust which exceeds the standard of lead permitted in paints by the Consumer Product Safety Commission under this Act, and such abatement shall qualify for assistance under section 14 of the United States Housing Act of 1937."; and

102 STAT. 3281

(5) by inserting before the period at the end of the last sentence the following: ", industrial hygienist, or local public health official".

(b) ABATEMENT DEMONSTRATION.—Section 302(d)(2) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)(2)) is amended—

(1) by striking the paragraph caption and inserting the following: "ABATEMENT DEMONSTRATION PROGRAM.—";

(2) in subparagraph (A)—

(A) by inserting after "Urban Development" the following: "and public housing"; and

(B) by adding at the end the following new sentence: "For purposes of the demonstration, a public housing agency may elect to test for lead-based paint using atomic absorption spectroscopy and may elect to abate lead-based paint and dust containing lead under standards more stringent than that in subsection (c), including the abatement of lead-based paint and dust which exceeds the standard of lead permitted in paints by the Consumer Product Safety Commission under this Act, and such abatement shall qualify for assistance under section 14 of the United States Housing Act of 1937."; and

(3) in subparagraph (B), by inserting after the first sentence the following new sentence: "Based on the demonstration, the Secretary shall prepare and include in the report a comprehensive and workable plan for the cost-effective inspection and abatement of public housing in accordance with paragraph (3), including an estimate of the total cost of abatement in accordance with paragraph (3)(B).".

(c) REPORTS.—Section 302(d)(2)(B) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)(2)(B)) is amended—

(1) in clause (i), by inserting ", including X-ray fluorescence and atomic absorption spectroscopy" before the semicolon;

(2) in clause (ii), by inserting ", including removal, containment, or encapsulation of the contaminated components, procedures which minimize the generation of dust (including the high efficiency vacuum removal of leaded dust), and procedures that provide for offsite disposal of the removed components, in compliance with all applicable regulatory standards and procedures" before the semicolon;

(3) in clause (iii), by inserting ", abatement, and worker protection" before the semicolon;

(4) by striking "and" at the end of clause (v);

(5) by striking the period at the end of clause (vi) and inserting "; and"; and

(6) by adding at the end the following new clause:

"(vii) the merits of an interim containment protocol for public housing dwellings that are determined to have lead-based paint hazards but for which comprehensive improvement assistance under section 14 of the United States Housing Act of 1937 is not available.".

102 STAT. 3282

(d) PUBLIC HOUSING INSPECTION.—Section 302(d) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) TESTING AND ABATEMENT OF OTHER PUBLIC HOUSING.—

"(A) REQUIRED INSPECTION.—The Secretary shall require the inspection described in subsection (c) for—

"(i) a random sample of dwellings and common areas in all public housing that is not subject to paragraph (1); and

"(ii) each dwelling in any public housing project in which there is a dwelling determined under clause (i) to have lead-based paint hazards, except that the Secretary shall not require the inspection of each dwelling if the Secretary requires the abatement of the lead-based paint hazards for the surfaces of each dwelling in the public housing project that correspond to the surfaces in the sample determined to have such hazards under clause (i).

"(B) SCHEDULE.—The Secretary shall require the inspection of all housing subject to this paragraph prior to the expiration of 5 years after the report is required to be transmitted under paragraph (2)(B). The Secretary may prioritize, within such 5-year period, inspections on the basis of vacancy, age of housing, or projected modernization or rehabilitation. The Secretary shall require abatement and final inspection and certification of such housing in accordance with the last two sentences of paragraph (1).".

(e) FUNDING.—Section 302(f) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(f)) is amended by adding at the end the following new sentence: "The Secretary shall submit annually to the Congress an estimate of the funds required to carry out the provisions of this section with the reports required by paragraphs (2)(B) and (4).".

(f) DETECTION TECHNIQUE.—Section 302(c) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(c)) is amended—

(1) in the first sentence, by inserting after "fluorescence analyzer" the following: ", atomic absorption spectroscopy,"; and

(2) in the second sentence, by inserting after "A qualified inspector" the following: "or laboratory".

42 USC 4822 note.

(g) CONSULTATION.—Section 566(b) of the Housing and Community Development Act of 1987 is amended—

(1) in the caption, by inserting "AND CONSULTATION" after "REGULATIONS"; and

(2) in paragraph (3)—

(A) by striking "under this subsection" and inserting "and in preparing reports under this section"; and

(B) in subparagraph (A), by inserting after "Building Sciences" the following: ", the Environmental Protection Agency, the National Institute of Environmental Health Sciences, the Centers for Disease Control, the Consumer Product Safety Commission, major public housing organizations, other major housing organizations,".

(h) INTERPRETATION OF SECTION.—Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822) is amended by adding at the end the following new subsection:

102 STAT. 3283

"(g) INTERPRETATION OF SECTION.—This section may not be construed to affect the responsibilities of the Environmental Protection Agency with respect to the protection of the public health from hazards posed by lead-based paint.".

SEC. 1089. INTERSTATE LAND SALES FULL DISCLOSURE.

(a) CORRECTION OF TYPOGRAPHICAL ERROR.—Section 1402(10) the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701(10)) is amended by inserting "and" after the semicolon.

(b) CORRECTION OF NUMBERING.—Section 1420 the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1719), is amended by striking "(a)" after the section designation.

SEC. 1090. DESIGNATION OF ENTERPRISE ZONES.

(a) CRITERIA FOR RANKING NOMINATED AREAS.—The first sentence of section 701(a)(3)(A) of the Housing and Community Development Act of 1987 (42 U.S.C. 11501(a)(3)(A)) is amended to read as follows: "Except as provided in subparagraph (B), the Secretary shall designate (i) the nominated areas with the highest average ranking with respect to the criteria set forth in subparagraphs (C) and (D) of subsection (c)(3), and the 1 criterion set forth in subparagraph (E)(i) or (E)(ii) of subsection (c)(3) that gives an area a higher ranking; and (ii) for areas described in paragraph (2)(B), the nominated areas with the highest ranking with respect to the 1 criterion set forth in subparagraph (C), (D), (E)(i), or (E)(ii) of subsection (c)(3) that gives an area a higher ranking.".

(b) CORRECTION OF CROSS-REFERENCE.—Section 701(a)(2)(B) of the Housing and Community Development Act of 1987 (42 U.S.C. 11501(a)(2)(B)) is amended by striking "under clause (i)" and inserting "under subparagraph (A)".

(c) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall revise the regulations issued by the Secretary to carry out title VII of the Housing and Community Development Act of 1987 (42 U.S.C. 11501 et seq.) by issuing a final regulation, effective upon the date of publication, that carries out the amendments made by this section.

42 USC 11501 note.

SEC. 1091. REPORT ON RECOMMENDED POLICY FOR DEALING WITH RADON IN ASSISTED HOUSING.

Public health and safety. 15 USC 2661 note.

(a) PURPOSES.—The purposes of this section are—

(1) to require the Department of Housing and Urban Development to develop an effective departmental policy for dealing with radon contamination that utilizes any Environmental Protection Agency guidelines and standards to ensure that occupants of housing covered by this section are not exposed to hazardous levels of radon; and

(2) to require the Department of Housing and Urban Development to assist the Environmental Protection Agency in reducing radon contamination.

(b) PROGRAM.—

(1) APPLICABILITY.—The housing covered by this section is—

(A) multifamily housing owned by the Department of Housing and Urban Development;

(B) public housing and Indian housing assisted under the United States Housing Act of 1937;

102 STAT. 3284

(C) housing receiving project-based assistance under section 8 of the United States Housing Act of 1937;

(D) housing assisted under section 236 of the National Housing Act; and

(E) housing assisted under section 221(d)(3) of the National Housing Act.

(2) IN GENERAL.—The Secretary of Housing and Urban Development shall develop and recommend to the Congress a policy for dealing with radon contamination that specifies programs for education, research, testing, and mitigation of radon hazards in housing covered by this section.

(3) STANDARDS.—In developing the policy, the Secretary shall utilize any guidelines, information, or standards established by the Environmental Protection Agency for—

(A) testing residential and nonresidential structures for radon;

(B) identifying elevated radon levels;

(C) identifying when remedial actions should be taken; and

(D) identifying geographical areas that are likely to have elevated levels of radon.

State and local governments. Business and industry. Health care facilities. Health care professionals.

(4) COORDINATION.—In developing the policy, the Secretary shall coordinate the efforts of the Department of Housing and Urban Development with the Environmental Protection Agency, and other appropriate Federal agencies, and shall consult with State and local governments, the housing industry, consumer groups, health organizations, appropriate professional organizations, and other appropriate experts.

(5) REPORT.—The Secretary shall submit a report to the Congress within 1 year after the date of the enactment of this Act that describes the Secretary's recommended policy for dealing with radon contamination and the Secretary's reasons for recommending such policy. The report shall include an estimate of the housing covered by this section that is likely to have hazardous levels of radon.

(c) COOPERATION WITH ENVIRONMENTAL PROTECTION AGENCY.—Within 6 months after the date of the enactment of this Act, the Secretary and the Administrator of the Environmental Protection Agency shall enter into a memorandum of understanding describing the Secretary's plan to assist the Administrator in carrying out the Environmental Protection Agency's authority to assess the extent of radon contamination in the United States and assist in the development of measures to avoid and reduce radon contamination.

(d) DEFINITIONS.—For purposes of this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

102 STAT. 3285

(2) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(e) AUTHORIZATION.—Funds available for housing covered by this section shall be available to carry out this section with respect to such housing.

Approved November 7, 1988.

LEGISLATIVE HISTORY—H.R. 4352 (S. 2554):

HOUSE REPORTS: No. 100-718, Pt. 1 (Comm. on Energy and Commerce), Pt. 2 (Comm. on Banking, Finance, and Urban Affairs), and Pt. 3 (Comm. on Ways and Means); and No. 100-1089 (Comm. of Conference).

SENATE REPORTS: No. 100-393 accompanying S. 2554 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug. 3, considered and passed House.

Sept. 28, considered and passed Senate, amended.

Oct. 19, House agreed to conference report.

Oct. 20, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Nov. 7, Presidential statement.

Public Law 100-630
100th Congress

102 STAT. 3289

An Act

To make certain technical and conforming amendments to the Education of the Handicapped Act and the Rehabilitation Act of 1973, and for other purposes.

Nov. 7, 1988
[H.R. 5334]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Handicapped Programs Technical Amendments Act of 1988.
Children and youth.
State and local governments.
20 USC 1400 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Handicapped Programs Technical Amendments Act of 1988".

TITLE I—AMENDMENTS TO THE EDUCATION OF THE HANDICAPPED ACT

SEC. 101. GENERAL PROVISIONS.

(a) DEFINITIONS.—Section 602 of the Education of the Handicapped Act (20 U.S.C. 1401) is amended—

(1) by moving paragraphs (1) through (23) of subsection (a) 2 ems to the right, so that the left margin of each such paragraph is indented 4 ems;

(2) by striking subsection (a)(3);

(3) in subsection (a)(6), by striking "Northern Mariana Islands" and inserting "Commonwealth of the Northern Mariana Islands";

(4) in subsection (a)(11)—

(A) by moving subparagraphs (A) through (E) 2 ems to the right, so that the left margin of each such subparagraph is indented 6 ems;

(B) by inserting "and" at the end of subparagraph (D);

(C) by striking "he" each place it appears in subparagraph (E) and inserting "the Secretary";

(D) by striking "; and" at the end of subparagraph (E) and inserting a period; and

(E) by striking subparagraph (F);

(5) by adding at the end of subsection (a)(11) the following: "The term includes community colleges receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978.";

(6) in subsection (a)(18), by striking "related services which" and all that follows through the period at the end and inserting the following: "related services that—

"(A) have been provided at public expense, under public supervision and direction, and without charge,

"(B) meet the standards of the State educational agency,

"(C) include an appropriate preschool, elementary, or secondary school education in the State involved, and

"(D) are provided in conformity with the individualized education program required under section 614(a)(5).";

102 STAT. 3290

(7) in subsection (a)(19), by striking "statement shall include" and all that follows through the period at the end and inserting the following: "statement shall include—

"(A) a statement of the present levels of educational performance of such child,

"(B) a statement of annual goals, including short-term instructional objectives,

"(C) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs,

"(D) the projected date for initiation and anticipated duration of such services, and

"(E) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.";

(8) in subsection (a)(20), by striking "after deducting" and all that follows through the period at the end and inserting the following: "after deducting—

"(A) amounts received—

"(i) under this part,

"(ii) under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, or

"(iii) under title VII of the Elementary and Secondary Education Act of 1965, and

"(B) any State or local funds expended for programs that would qualify for assistance under such part, chapter, or title.";

(9) in subsection (a)(21), by striking "(20 U.S.C. 880b-1(a)(2))";

(10) in subsection (a)(23), by moving subparagraphs (A) through (C) 2 ems to the right, so that the left margin of each such subparagraph is indented 4 ems; and

(11) in subsection (b), by striking "section 602(a)(1))" and inserting "subsection (a)(1))".

(b) EQUIPMENT AND CONSTRUCTION.—Section 605 of the Education of the Handicapped Act (20 U.S.C. 1404(a)) is amended—

(1) in subsection (a), by striking "he" and inserting "the Secretary"; and

(2) in the first sentence of subsection (b), by inserting a comma after "If".

(c) GRANTS FOR THE REMOVAL OF ARCHITECTURAL BARRIERS.—Section 607(a) of the Education of the Handicapped Act (20 U.S.C. 1406(a)) is amended by striking "the Act approved" and all that follows through the period at the end and inserting the following: "the Act entitled 'An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved August 12, 1968.".

(d) REGULATIONS.—Section 608 of the Education of the Handicapped Act (20 U.S.C. 1407) is amended—

(1) in subsection (b), by striking "IEP" and inserting "individualized education program"; and

(2) by striking subsection (c).

SEC. 102. ASSISTANCE FOR EDUCATION OF ALL HANDICAPPED CHILDREN.

(a) ALLOCATIONS.—Section 611 of the Education of the Handi-
102 STAT. 3291 capped Act (20 U.S.C. 1411) is amended—

(1) in subsection (a)(2), by striking "Northern Mariana Islands" and inserting "Commonwealth of the Northern Mariana Islands";

(2) in subsection (a)(5)—

(A) by striking "on the order of any court;" in subparagraph (A)(ii) and inserting "or the order of any court;";

(B) by striking "section 121" in subparagraph (A)(iii) and inserting "subpart 2 of part D of chapter 1 of title 1"; and

(C)(i) by striking "five to seventeen," in subparagraph (B) and inserting "three to seventeen,"; and

(ii) by striking "him" in subparagraph (B) and inserting "the Secretary";

(3) in subsection (e)(1), by striking "Northern Mariana Islands" and inserting "Commonwealth of the Northern Mariana Islands";

(4) in subsection (f)(1), by striking "serviced" and inserting "served"; and

(5) in subsection (f)(2)(B), by inserting a comma after "inclusive".

(b) ELIGIBILITY.—Section 612 of the Education of the Handicapped Act (20 U.S.C. 1412) is amended—

(1) by moving paragraphs (1) through (7) 2 ems to the right, so that the left margin of each such paragraph is indented 4 ems;

(2) in paragraph (2), by moving subparagraphs (A) through (E) 2 ems to the right, so that the left margin of each such paragraph is indented 6 ems; and

(3) in paragraph (2)(E), by striking "the amendment" the first place it appears and inserting "any amendment".

(c) STATE PLANS.—Section 613 of the Education of the Handicapped Act (20 U.S.C. 1413) is amended—

(1) in the first sentence of subsection (a), by striking "he" and inserting "the Secretary";

(2) in subsection (a)(2), by striking "section 121" and all that follows through "(20 U.S.C. 1262(a)(4)(B))," and inserting "subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and section 202(1) of the Carl D. Perkins Vocational Education Act,";

(3) in subsection (a)(3), by striking "a description of programs and procedures" and all that follows through the semicolon at the end and inserting the following: "a description of programs and procedures for—

"(A) the development and implementation of a comprehensive system of personnel development, which shall include—

"(i) inservice training of general and special educational instructional and support personnel,

"(ii) detailed procedures to assure that all personnel necessary to carry out the purposes of this Act are appropriately and adequately prepared and trained, and

"(iii) effective procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research, demonstration, and similar projects, and

"(B) adopting, where appropriate, promising educational practices and materials developed through such projects;"; 102 STAT. 3292

(4) by amending subsection (a)(4)(B) to read as follows:

"(B) that—

"(i) handicapped children in private schools and facilities will be provided special education and related services (in conformance with an individualized education program as required by this part) at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all handicapped children within such State; and

"(ii) in all such instances, the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies;";

(5) by amending subsection (a)(7) to read as follows:

"(7) provide for—

"(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part, and

"(B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this part;";

(6) in subsection (a)(9), by striking "under this part" the first place it appears and all that follows through the semicolon at the end and inserting the following: "under this part—

"(A) will not be commingled with State funds, and

"(B) will be so used as to supplement and increase the level of Federal, State, and local funds (including funds that

part, and that a public agency will administer such funds and property;

"(B) Federal funds expended by local educational agencies and intermediate educational units for programs under this part—

"(i) shall be used to pay only the excess costs directly attributable to the education of handicapped children; and

"(ii) shall be used to supplement and, to the extent practicable, increase the level of State and local funds expended for the education of handicapped children, and in no case to supplant such State and local funds; and

102 STAT. 3294

"(C) State and local funds will be used in the jurisdiction of the local educational agency or intermediate educational unit to provide services in program areas that, taken as a whole, are at least comparable to services being provided in areas of such jurisdiction that are not receiving funds under this part;";

(2) by amending subsection (a)(3) to read as follows:

"(3) provide for—

"(A) furnishing such information (which, in the case of reports relating to performance, is in accordance with specific performance criteria related to program objectives), as may be necessary to enable the State educational agency to perform its duties under this part, including information relating to the educational achievement of handicapped children participating in programs carried out under this part; and

"(B) keeping such records, and affording such access to such records, as the State educational agency may find necessary to assure the correctness and verification of such information furnished under subparagraph (A);"; and

(3) in subsection (a)(5)—

(A) by striking "establish," and inserting "establish"; and

(B) by inserting a comma after "if appropriate".

(e) PROCEDURAL SAFEGUARDS.—Section 615 of the Education of the Handicapped Act (20 U.S.C. 1415) is amended—

(1) in subsection (b)(1)(D), by striking "inform" and inserting "informs"; and

(2) in subsection (d), by striking "shall be accorded" and all that follows through the period at the end and inserting the following: "shall be accorded—

"(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children,

"(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses,

"(3) the right to a written or electronic verbatim record of such hearing, and

Records.

"(4) the right to written findings of fact and decisions (which findings and decisions shall be made available to the public consistent with the requirements of section 617(c) and shall also be transmitted to the advisory panel established pursuant to section 613(a)(12)).".

Public information.

(f) WITHHOLDING AND JUDICIAL REVIEW.—Section 616 of the Education of the Handicapped Act (20 U.S.C. 1416) is amended—

(1) in subsection (a)—

(A) by striking "pursuant to the State plan" and all that follows through "If the Secretary withholds" and inserting the following: "pursuant to the State plan, the Secretary—

"(A) shall, after notifying the State educational agency, withhold any further payments to the State under this part, and

"(B) may, after notifying the State educational agency, withhold further payments to the State under the Federal

programs specified in section 613(a)(2) within the Secretary's jurisdiction, to the extent that funds under such programs are available for the provision of assistance for the education of handicapped children.

102 STAT. 3295

If the Secretary withholds";

(B) by striking "he" in the second sentence and inserting "the Secretary";

(C) by striking "his jurisdiction" in the penultimate sentence and inserting "the Secretary's jurisdiction"; and

(2) in subsection (b)(2), by striking "on which he based his action" and inserting "upon which the Secretary's action was based"; and

(3) in subsection (b)(2), by striking "his" and inserting "the Secretary's".

(g) ADMINISTRATION.—Section 617 of the Education of the Handicapped Act (20 U.S.C. 1417) is amended—

(1) in subsection (a)(2), by striking "his" and inserting "the Secretary's";

(2) in subsection (a)(2)(D), by inserting after "1975" the following: "and every year thereafter"; and

(3) in subsection (d), by striking "his" and inserting "the Secretary's".

(h) EVALUATION.—Section 618 of the Education of the Handicapped Act (20 U.S.C. 1418) is amended—

(1) by amending subsection (a) to read as follows:

Grants.
Contracts.

"(a) The Secretary shall, directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigations, and evaluations—

"(1) to assess progress in the implementation of this Act;

"(2) to assess the impact and effectiveness of State and local efforts, and efforts by the Secretary of the Interior, to provide—

"(A) free appropriate public education to handicapped children and youth; and

"(B) early intervention services to handicapped infants and toddlers; and

"(3) to provide—

"(A) Congress with information relevant to policymaking; and

"(B) State, local, and Federal agencies, including the Department of the Interior, with information relevant to program management, administration, and effectiveness with respect to such education and early intervention services.";

(2) in subsection (b)(1), by striking "intervention services" and all that follows through the comma at the end and inserting the following: "intervention services—

"(A) in age groups 0-2 and 3-5, and

"(B) in age groups 6-11, 12-17, and 18-21,

by disability category,";

(3) in subsection (b)(3), by striking "or otherwise" and all that follows through the comma at the end and inserting the following: "or otherwise—

"(A) in age group 3-5, and

"(B) in age groups 6-11, 12-17, and 18-21,

by disability category and anticipated services for the next year,";

(4) in subsection (b)(6), by striking "handicapped children and youth" and all that follows through the period at the end and inserting the following: "handicapped children and youth—

"(A) in age group 3-5, and

"(B) in age groups 6-11, 12-17, and 18-21,

102 STAT. 3296

and by disability category.";

(5) in subsection (d)(4), by striking "resources" and inserting "resource";

(6) in subsection (f)(4), by striking "a free appropriate public education" and all that follows through the period at the end and inserting the following: "a free appropriate public education to—

"(A) handicapped infants, toddlers, children, and youth in rural areas,

"(B) handicapped migrants,

"(C) handicapped Indians (particularly programs operated under section 611(f)),

"(D) handicapped Native Hawaiian (and other native Pacific basin) children and youth, and

"(E) handicapped infants, toddlers, children, and youth with limited English proficiency."; and

(7) in subsection (f)(5)—

(A) by striking "National Council for the Handicapped" and inserting "National Council on Disability"; and

(B) by inserting "the Secretary shall include" before "a description of".

(i) PRESCHOOL GRANTS.—Section 619 of the Education of the Handicapped Act (20 U.S.C. 1419) is amended—

(1) in subsection (a)(2)(A)(ii)(II), by inserting "increase in the" after "multiplied by the estimated";

(2) in subsection (a)(2)(E), by striking "clause (ii)(II) of the applicable subparagraph,";

(3) in subsection (b)(2)(A), by striking "$656,000,000, and" and inserting "$656,000,000, or";

(4) in subsection (c)(3)(B)—

(A) by striking "the amount available under subsection (a)(2)(A)(ii)(II)" and inserting "the amount of such funds"; and

(B) by striking "aggregate number of handicapped children" and all that follows through "related services" and inserting "aggregate number of such children"; and

(5) by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, unless enacted in express limitation of this subsection, amounts appropriated under this section for fiscal years 1987 and 1988 and received by a State whose allotment for the succeeding fiscal year is adjusted downwards under subsection (a)(2)(E) shall remain available for obligation by such State, and by local educational agencies and intermediate educational units in such State, during the 2 fiscal years succeeding the fiscal year for which such amounts were appropriated.".

SEC. 102. CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF HANDICAPPED INDIVIDUALS.

(a) IN GENERAL.—The part heading for part C of the Education of the Handicapped Act (20 U.S.C. 1421 et seq.) is amended to read as follows:

"PART C—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF HANDICAPPED INDIVIDUALS".

(b) REGIONAL RESOURCE AND FEDERAL CENTERS.—Section 621 of the Education of the Handicapped Act (20 U.S.C. 1421) is amended— 102 STAT. 3297

(1) in subsection (a), by striking "appropriate State agencies" in the second sentence and inserting "appropriate public agencies"; and

(2) in subsection (e), by striking "for this section" and all that follows through "subsection (a)" and inserting "in the previous fiscal year for regional resource centers under subsection (a) shall be made available for such centers".

(c) SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH.—Section 622 of the Education of the Handicapped Act (20 U.S.C. 1422) is amended—

(1) in subsection (a)(1)(B), by inserting a comma after "youth"; and

(2) in subsection (c)(2)(B), by striking "subpart 2" and all that follows through "of 1981)" and inserting "subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965".

(d) EARLY EDUCATION FOR HANDICAPPED CHILDREN.—Section 623 of the Education of the Handicapped Act (20 U.S.C. 1423) is amended—

(1) in subsection (a)(1), by striking "designed to" and all that follows through the period at the end and inserting the following: "designed to—

"(A) facilitate the intellectual, emotional, physical, mental, social, speech, language development, and self-help skills of such children,

"(B) encourage the participation of the parents of such children in the development and operation of any such program,

"(C) acquaint the community to be served by any such program with the problems and potentialities of such children,

"(D) offer training about exemplary models and practices to State and local personnel who provide services to handicapped children from birth through age 8, and

"(E) support the adoption of exemplary models and practices in States and local communities.";

(2) in subsection (d), by inserting "or" before "enter"; and

(3) in subsection (e), by striking "application" and inserting "applications".

(e) PROGRAMS FOR SEVERELY HANDICAPPED CHILDREN.—Section 624 of the Education of the Handicapped Act (20 U.S.C. 1424) is amended—

(1) in subsection (a)(2), by striking the comma following "improvements in";

(2) in subsection (a)(3), by inserting "and youth" after "such children";

(3) in subsection (b)—

(A) by striking "making grants and contracts" and inserting "making grants and entering into contracts and cooperative agreements"; and

(B) by striking "such grants and contracts" and inserting "such grants, contracts, or cooperative agreements"; and

(4) in subsection (c)—

(A) by striking the comma following "programs"; and

(B) by striking "nation" and inserting "Nation".

(f) POSTSECONDARY EDUCATION.—Section 625 of the Education of
102 STAT. 3298 the Handicapped Act (20 U.S.C. 1424a) is amended—

(1) in subsection (a)(4), by striking "application" and inserting "applications"; and

(2) in subsection (a)(5), by striking "dispensed throughout the nation" and inserting "dispersed throughout the Nation".

(g) SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR HANDICAPPED YOUTH.—Section 626 of the Education of the Handicapped Act (20 U.S.C. 1425) is amended—

(1) in subsection (a)—

(A) by striking "(Public Law 97-300)" in the first sentence; and

(B) by striking "through the Nation" in the second sentence and inserting "throughout the Nation";

(2) in subsection (b)(6)—

(A) by striking "between" and inserting "among"; and

(B) by inserting "and" before "public employment";

(3) in subsection (b)(10), by striking "specifically" and inserting "specially"; and

(4) in subsection (c), by inserting "its activities" after "coordinate".

SEC. 104. TRAINING PERSONNEL FOR THE EDUCATION OF HANDICAPPED INDIVIDUALS.

(a) IN GENERAL.—The part heading for part D of the Education of the Handicapped Act (20 U.S.C. 1431 et seq.) is amended to read as follows:

"PART D—TRAINING PERSONNEL FOR THE EDUCATION OF HANDICAPPED INDIVIDUALS".

(b) GRANTS FOR PERSONNEL TRAINING.—Section 631 of the Education of the Handicapped Act (20 U.S.C. 1431) is amended—

(1) in subsection (a)(1), by striking "(including the university-affiliated" and all that follows through "program)" in the matter that precedes subparagraph (A) and inserting "(including university affiliated programs and satellite centers participating in programs under part D of the Developmental Disabilities Assistance and Bill of Rights Act)";

(2) in subsection (a)(2)(A), by striking "In making grants" and all that follows through "such grants" and inserting "The Secretary shall base the award of grants under paragraph (1)";

(3) in subsection (b), by inserting ", State agencies," after "higher education";

(4) in subsection (c)(2)(A)—

(A) by striking "on which a majority" both places it appears and inserting "of which a majority"; and

(B) by striking the comma and inserting a semicolon; and

(5) in subsection (c)(5)(D), by striking "individualized educational program" and inserting "individualized education program".

(c) GRANTS TO STATE EDUCATIONAL AGENCIES AND INSTITUTIONS FOR TRAINEESHIPS.—Section 632 of the Education of the Handicapped Act (20 U.S.C. 1432) is amended to read as follows: 102 STAT. 3299

"GRANTS TO STATE EDUCATIONAL AGENCIES AND INSTITUTIONS FOR TRAINEESHIPS

"SEC. 632. (a) The Secretary shall make a grant of sufficient size and scope to each State educational agency for the purposes described in subsection (c) and, in any State in which the State educational agency does not apply for such a grant, to an institution of higher education within such State for such purposes.

"(b) The Secretary may also make a limited number of grants to State educational agencies on a competitive basis for the purposes described in subsection (c). In any fiscal year, the Secretary may not expend for purposes of this subsection an amount that exceeds 10 percent of the amount expended for purposes of this section in the preceding fiscal year.

"(c) Grants made under this section shall be for the purpose of assisting States in establishing and maintaining preservice and inservice programs to prepare personnel to meet the needs of handicapped infants, toddlers, children, and youth or supervisors of such persons, consistent with the personnel needs identified in the State's comprehensive system of personnel development under section 613 and under section 676(b)(8).".

(d) CONTINUATION GRANTS.—Notwithstanding section 632 of the Education of the Handicapped Act (as amended by subsection (c)), the Secretary of Education may make continuation grants for the fiscal year 1989 to institutions of higher education that received competitive grants for the fiscal year 1987. 20 USC 1432 note.

(e) CLEARINGHOUSE.—Section 633(c)(2) of the Education of the Handicapped Act (20 U.S.C. 1433(c)(2)) is amended by inserting "of information" after "Dissemination".

SEC. 105. RESEARCH IN THE EDUCATION OF HANDICAPPED INDIVIDUALS.

(a) IN GENERAL.—The part heading for part E of the Education of the Handicapped Act (20 U.S.C. 1441 et seq.) is amended to read as follows:

"PART E—RESEARCH IN THE EDUCATION OF HANDICAPPED INDIVIDUALS".

(b) RESEARCH AND DEMONSTRATION PROJECTS IN EDUCATION OF HANDICAPPED CHILDREN.—Section 641 of the Education of the Handicapped Act (20 U.S.C. 1441) is amended—

(1) in subsection (a), by striking "children and youth" each place it appears and inserting "children, and youth";

(2) in subsection (a)(6), by inserting a comma after "scales"; and

(3) in subsection (e)—

(A) by striking "National Institute of Handicapped Research" and inserting "National Institute on Disability and Rehabilitation Research"; and

(B) by striking "National Council on the Handicapped" and inserting "National Council on Disability".

(c) PANELS OF EXPERTS.—Section 643(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1443(a)(1)) is amended by striking "the handicapped" and inserting "handicapped individuals".

102 STAT. 3300

SEC. 106. INSTRUCTIONAL MEDIA FOR HANDICAPPED INDIVIDUALS.

(a) IN GENERAL.—The part heading for part F of the Act is amended to read as follows:

"PART F—INSTRUCTIONAL MEDIA FOR HANDICAPPED INDIVIDUALS".

(b) PURPOSES.—Section 651 of the Education of the Handicapped Act (20 U.S.C. 1451) is amended to read as follows:

"PURPOSES

"SEC. 651. The purposes of this part are to promote—

"(1) the general welfare of deaf individuals by—

"(A) bringing to such individuals understanding and appreciation of those films that play such an important part in the general and cultural advancement of hearing individuals;

"(B) providing through these films enriched educational and cultural experiences through which deaf individuals can be brought into better touch with the realities of their environment; and

"(C) providing a wholesome and rewarding experience that deaf individuals may share together; and

"(2) the educational advancement of handicapped individuals by—

"(A) carrying on research in the use of educational media for handicapped individuals;

"(B) producing and distributing educational media for the use of handicapped individuals, their parents, their actual or potential employers, and other individuals directly involved in work for the advancement of handicapped individuals; and

"(C) training individuals in the use of educational media for the instruction of handicapped individuals.".

(c) CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR HANDICAPPED INDIVIDUALS.—Section 652 of the Education of the Handicapped Act (20 U.S.C. 1452) is amended—

(1) by amending the section heading of such section to read as follows:

"CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR HANDICAPPED INDIVIDUALS";

(2) by striking "persons" each place it appears and inserting "individuals";

(3) by striking "the handicapped" each place it appears and inserting "handicapped individuals";

(4) in subsection (b)(2)—
(A) by striking "purchased" and inserting "purchase"; and
(B) by striking "to" and inserting "for";
(5) in subsection (b)(5), by striking "he" and inserting "the Secretary";
(6) in subsection (b)(6), by striking "and" the second place it appears;
(7) in subsection (b)(8), by striking "the deaf" and inserting "deaf individuals"; and
(8) in subsection (c), by striking "deaf people" each place it appears and inserting "deaf individuals".

SEC. 107. TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR HANDICAPPED INDIVIDUALS.

(a) IN GENERAL.—The part heading for part G of the Education of the Handicapped Act (20 U.S.C. 1461 et seq.) is amended to read as follows:

"PART G—TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR HANDICAPPED INDIVIDUALS".

(b) FINANCIAL ASSISTANCE.—The second sentence of section 661 of the Education of the Handicapped Act (20 U.S.C. 1461) is amended—
(1) by striking "subsection" and inserting "section"; and
(2) by striking "the handicapped" each place it appears and inserting "handicapped individuals".

SEC. 108. HANDICAPPED INFANTS AND TODDLERS.

(a) FINDINGS AND POLICY.—Section 671 of the Education of the Handicapped Act (20 U.S.C. 1471) is amended—
(1) in subsection (a)(4), by striking "infants and toddlers with handicaps" and inserting "handicapped infants and toddlers"; and
(2) in subsection (b)(3), by striking "its" and inserting "their".

(b) DEFINITIONS.—Section 672 of the Education of the Handicapped Act (20 U.S.C. 1472) is amended—
(1) in paragraph (1)(A), by striking "Cognitive" and inserting "cognitive";
(2) in paragraph (2), by striking "'Early intervention services'" and inserting "The term 'early intervention services'"; and
(3) in paragraph (2)(C), by striking "psycho-social" and inserting "psychosocial".

(c) CONTINUING ELIGIBILITY.—Section 675 of the Education of the Handicapped Act (20 U.S.C. 1475) is amended—
(1) in subsection (a), by striking "assurances" and inserting "an assurance"; and
(2) in subsection (b)(1)(C), by striking "with respect to" and inserting "in order to comply with".

(d) REQUIREMENTS FOR STATEWIDE SYSTEM.—Section 676 of the Education of the Handicapped Act (20 U.S.C. 1476) is amended—
(1) in subsection (b)(5)—
(A) by inserting "of this Act" after "part B"; and
(B) by striking "the participation by" and inserting "participation by"; and
(2) in subsection (b)(12), by striking "and".

(f) INDIVIDUALIZED FAMILY SERVICE PLAN.—Section 677 of the Education of the Handicapped Act (20 U.S.C. 1477) is amended—
(1) in subsection (a), by striking "infant" the second place it appears in the matter preceding paragraph (1) and inserting "infant's";
(2) in subsection (b)—
(A) by striking "6 month-intervals" and inserting "6-month intervals"; and

102 STAT. 3302

(B) by striking "infant and toddler" and inserting "infant or toddler";

(3) in subsection (d)(1), by striking "psycho-social" and inserting "psychosocial";

(4) in subsection (d)(3)—

(A) by striking "infant and toddler" and inserting "infant or toddler"; and

(B) by striking "are being made" and inserting "is being made";

(5) in subsection (d)(6), by striking "infant's and toddler's" and inserting "infant's or toddler's"; and

(6) in subsection (d)(7), by inserting "of this Act" after "part B".

(g) STATE APPLICATION AND ASSURANCES.—Section 678 of the Education of the Handicapped Act (20 U.S.C. 1478) is amended—

(1) in subsection (a)(3), by striking "and"; and

(2) in subsection (a)(5), by striking "for the fifth and succeeding fiscal years" and inserting a comma and "for the fifth and succeeding fiscal years,".

(h) USES OF FUNDS.—Section 679 of the Education of the Handicapped Act (20 U.S.C. 1479) is amended—

(1) in paragraph (1), by inserting "and their families" after "toddlers"; and

(2) in paragraph (2), by inserting "and their families" after "toddlers".

(i) PROCEDURAL SAFEGUARDS.—Section 680 of the Education of the Handicapped Act (20 U.S.C. 1480) is amended—

(1) in paragraph (3), by striking "and a guardian" and inserting "or a guardian";

(2) in paragraph (4), by striking "infant and toddlers" and inserting "infant or toddler"; and

(3) in paragraph (7), by striking "if applying for initial services" and inserting a comma and "if applying for initial services,".

(j) PAYOR OF LAST RESORT.—Section 681(a) of the Education of the Handicapped Act (20 U.S.C. 1481(a)) is amended by striking "the delay" and inserting "a delay".

(k) STATE INTERAGENCY COORDINATING COUNCIL.—Section 682 of the Education of the Handicapped Act (20 U.S.C. 1482) is amended—

(1) in subsection (b)(4), by striking "and";

(2) in subsection (b)(5), by striking "and others selected by the Governor." and inserting a comma and "and"; and

(3) by adding at the end of subsection (b) a new paragraph (6) to read as follows:

"(6) others selected by the Governor.".

20 USC 1419 note.

SEC. 109. SPECIAL RULE FOR FISCAL YEAR 1987 PRESCHOOL GRANTS.

(a) SPECIAL RULE.—Notwithstanding section 412(b)(2) of the General Education Provisions Act, a State educational agency may use funds made available in fiscal year 1986 under section 619 of the Education of the Handicapped Act for expenditure in fiscal year 1987 in accordance with the statutory and regulatory provisions relating to such program that were in effect for fiscal year 1986 and the application submitted by such agency for such program for such fiscal year.

(b) EFFECTIVE DATE.—This section shall be effective as of October 1, 1987.

102 STAT. 3303

20 USC 1419 note.

SEC. 110. PRESCHOOL GRANTS.

The provisions of section 300.300(b)(3) of title 34, Code of Federal Regulations, shall not apply with respect to children aged 3 through 5, inclusive, in any State for any fiscal year for which the State receives a grant under section 619(a)(1) of the Education of the Handicapped Act.

TITLE II—AMENDMENTS TO THE REHABILITATION ACT OF 1973

SEC. 201. GENERAL PROVISIONS.

(a) REHABILITATION SERVICES ADMINISTRATION.—The last sentence of section 3(a) of the Rehabilitation Act of 1973 (29 U.S.C. 702(a)) is amended by striking "National Council on the Handicapped" and inserting "National Council on Disability".

(b) CONSOLIDATED REHABILITATION PLAN.—Section 6 of the Rehabilitation Act of 1973 (29 U.S.C. 705) is amended—

(1) in subsection (a), by striking "the Developmental Disabilities Services and Facilities Construction Amendments of 1970" and inserting "the Developmental Disabilities Assistance and Bill of Rights Act"; and

(2) in subsection (b)—

(A) by striking "the Developmental Disabilities Services and Facilities Construction Amendments of 1970" in the first sentence and inserting "the Developmental Disabilities Assistance and Bill of Rights Act"; and

(B) by striking the last sentence and inserting the following: "If the Secretary finds that all such requirements are satisfied, the Secretary may—

"(1) approve the plan to serve in all respects as the substitute for the separate plans which would otherwise be required with respect to each of the programs included therein; or

"(2) advise the State to submit separate plans for such programs.".

(c) DEFINITIONS.—Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 706) is amended—

(1) in paragraph (2), by inserting a comma after "unit of general local government";

(2) in paragraph (5)(B), by inserting a comma after "employability";

(3) in paragraph (5)(C), by striking "skill" and inserting "skills";

(4) in paragraph (5)(G)(i), by striking "such individual" the second place it appears;

(5) by amending paragraph (13)(B) to read as follows: "(B) testing, fitting, or training in the use of prosthetic and orthotic devices,";

(6) by amending paragraph (13)(F) to read as follows: "(F) psychiatric, psychological, and social services,";

(7) in paragraph (13)(L), by striking "provisions" and inserting "provision"; and

(8) in paragraph (15)(A), by striking ", for purposes of this Act".

102 STAT. 3304

(d) NONDUPLICATION.—Section 10 of the Rehabilitation Act of 1973 (29 U.S.C. 709) is amended in the last sentence by inserting a comma after "any other provision of this Act".

(e) ADMINISTRATION OF THE ACT.—Section 12(c) of the Rehabilitation Act of 1973 (29 U.S.C. 711(c)) is amended by striking "his" and inserting "the Commissioner's".

(f) EVALUATION.—Section 14 of the Rehabilitation Act of 1973 (29 U.S.C. 713) is amended—

(1) in subsection (a), by inserting a comma after "earnings" in the third sentence; and

(2) in subsection (c), by striking "evaluation" and inserting "evaluations".

(g) REVIEW OF APPLICATIONS.—The first sentence of section 18 of the Rehabilitation Act of 1973 (29 U.S.C. 717) is amended—

(1) by inserting a comma after "this Act"; and

(2) by inserting a comma after "conferences".

SEC. 202. VOCATIONAL REHABILITATION SERVICES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 100 of the Rehabilitation Act of 1973 (29 U.S.C. 720) is amended—

(1) in subsection (b), by striking paragraph (3);

(2) in subsection (c)—

(A) by striking "price index" each place it appears and inserting "Consumer Price Index"; and

(B) by striking "subsection" in paragraph (3) and inserting "section"; and

(3) by amending subsection (d)(1) to read as follows:

"(d)(1)(A) Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

"(i) of the authorization of appropriations for the program authorized by the State grant program under part B of this title; or

"(ii) of the duration of the program authorized by the State grant program under part B of this title;

has passed legislation which would have the effect of extending the authorization or duration (as the case may be) of such program, such authorization is automatically extended for one additional year for the program authorized by this title.

"(B) The amount authorized to be appropriated for the additional fiscal year described in subparagraph (A) shall be an amount equal to the amount appropriated for such program for fiscal year 1991, or the amount authorized to be appropriated for such program for fiscal year 1991, whichever is higher, plus the amount of the Consumer Price Index addition determined under subsection (c) for the immediately preceding fiscal year.".

(b) STATE PLANS.—Section 101(a) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)) is amended—

(1) in paragraph (1)(A)(i)—

(A) by inserting a comma after "where";

(B) by inserting a comma after "law"; and

(C) by striking the comma following "adult blind";

(2) in paragraph (4), by striking "him" and inserting "the Commissioner";

(3) in paragraph (5)(A), by striking "individuals with handicaps with the most severe handicaps" and inserting "individuals with the most severe handicaps,";

102 STAT. 3305

(4) in paragraph (5)(A)(i), by inserting a comma after "provided";

(5) in paragraph (5)(A)(ii), by inserting a comma after "goals" the first place it appears;

(6) in paragraph (7)(B), by striking "utilized in" and inserting "utilized therein";

(7) in paragraph (9)—

(A) by striking "him" and inserting "the Commissioner"; and

(B) by striking "his" and inserting "the Commissioner's";

(8) in paragraph (13)(A)—

(A) by inserting "who is" before "disabled"; and

(B) by striking "his" and inserting "the employee's";

(9) in paragraph (13)(B), by striking "and the proximate cause" and inserting "if the proximate cause";

(10) by amending paragraph (15) to read as follows:

"provide for continuing statewide studies of the needs of individuals with handicaps and how these needs may be most effectively met, including—

"(A) conducting a full needs assessment for serving individuals with severe handicaps;

"(B) an assessment of the capacity and condition of rehabilitation facilities, plans for improving such facilities, and policies for the use thereof by the State agency; and

"(C) review of the efficacy of the criteria employed with respect to ineligibility determinations described in paragraph (9)(C) of this subsection with a view toward the relative need for

services to significant segments of the population of individuals with handicaps and the need for expansion of services to those individuals with the most severe handicaps;"; and

(11) in paragraph (20), by striking "handicapped American Indians" and inserting "American Indians with handicaps".

(c) INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.—Section 102 of the Rehabilitation Act of 1973 (29 U.S.C. 722) is amended—

(1) in the last sentence of subsection (a), by striking "including recourse" and all that follows through "this section," and inserting "including, where appropriate, recourse to the processes set forth in subsections (b)(2) and (d) of this section, and the availability of services provided under section 112,";

(2) in subsection (b)(1)(H), by striking "severely handicapped individuals" and inserting "individuals with severe handicaps";

(3) in subsection (b)(2)—

(A) by inserting a comma after "annually"; and

(B) by inserting a comma after "(or"; and

(4) in subsection (c)(2), by inserting "is" after "thus".

(d) SCOPE OF VOCATIONAL REHABILITATION SERVICES.—Section 103 of the Rehabilitation Act of 1973 (29 U.S.C. 723) is amended—

(1) in subsection (a)(1)—

(A) by striking the comma after "related services"; and

(B) by striking "where appropriate," and all that follows through "or both;" and inserting the following: "where appropriate—

"(A) an evaluation by personnel skilled in rehabilitation engineering technology; and

"(B) an examination by a physician skilled in the diagnosis and treatment of mental or emotional disorders, or by a licensed psychologist in accordance with State laws and regulations, or both;"; and

102 STAT. 3306

(2) in subsection (a)(2), by striking "individuals maintain" and inserting "individuals to maintain".

(e) PAYMENTS TO STATES FOR BASIC VOCATIONAL REHABILITATION SERVICES.—(1) Section 111 of the Rehabilitation Act of 1973 (29 U.S.C. 731) is amended by striking "SEC. 111. SEC. 111." and inserting "SEC. 111.".

(2)(A) Section 111(a)(2)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 731(a)(2)(B)) is amended to read as follows:

"(B) For fiscal year 1990 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the average of the total of such expenditures for the three fiscal years preceding that previous fiscal year.".

(B) The amendment made by subparagraph (A) shall take effect on October 1, 1989.

29 USC 731 note.

(3) Section 111(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 731(b)(1)) is amended by striking the comma following "such other investigation".

(f) CLIENT ASSISTANCE PROGRAM.—Section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732) is amended—

(1) in subsection (a), by striking "handicapped individuals" in the last sentence and inserting "individuals with handicaps";

(2) in subsection (b), by striking the comma following "client assistance program";

(3) by adding at the end of subsection (c) the following new paragraph:

"(4) For the purpose of this subsection, the term 'Governor' means the chief executive of the State.";

(4) in subsection (g)(1), by striking the comma after "consultants of";

(5) in subsection (g)(4), by striking "his" and inserting "the Secretary's";

(6) in subsection (h)(3)(C), by striking "this reauthorization" each place it appears and inserting "the date of the enactment of the Rehabilitation Amendments of 1984"; and

(7) in subsection (i), by inserting a comma after "1991".

(g) STATE ALLOTMENTS.—Section 120(a) of the Rehabilitation Act of 1973 (29 U.S.C. 740(a)) is amended by striking "(1)".

(h) PAYMENTS TO STATES FOR INNOVATION AND EXPANSION.—Section 121(a)(3) of the Rehabilitation Act of 1973 (29 U.S.C. 741(a)(3)) is amended by striking "handicapped youth and adults" and inserting "both youths with handicaps and adults with handicaps".

(i) VOCATIONAL REHABILITATION SERVICES GRANTS.—Section 130 of the Rehabilitation Act of 1973 (29 U.S.C. 750) is amended—

(1) in the first sentence of subsection (a)—

(A) by inserting a comma after "part"; and

(B) by striking "handicapped American Indians" and inserting "American Indians with handicaps";

(2) in subsection (b)(1)(B), by striking "handicapped American Indians" and inserting "American Indians with handicaps"; and

(3) by striking subsection (d) and redesignating subsection (e) as subsection (c).

102 STAT. 3307

29 USC 752.

(j) STUDY OF NEEDS OF AMERICAN INDIANS WITH HANDICAPS.—Section 132 of the Rehabilitation Act of 1973 (29 U.S.C. 751) is redesignated as section 131.

SEC. 203. RESEARCH AND TRAINING.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 201(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 761(a)(1)) is amended by inserting a comma after "1987".

(b) NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.—Section 202 of the Rehabilitation Act of 1973 (29 U.S.C. 761a) is amended—

(1) in subsection (b)(8), by striking "the handicapped" and inserting "individuals with handicaps";

(2) in subsection (c)(1)—

(A) by striking "his" each place it appears and inserting "the Director's";

(B) by striking "National Council on the Handicapped" where it appears in the third sentence and inserting "National Council on Disability"; and

(C) by striking "him" where it appears in the last sentence and inserting "the Director";

(3) in subsection (c)(3), by inserting a comma after "to such provisions";

(4) in the second sentence of subsection (g)—

(A) by striking "in the consultation" and inserting "in consultation"; and

(B) by striking "National Council on the Handicapped" and inserting "National Council on Disability";

(5) in the third sentence of subsection (g), by inserting "the Director considers" before "necessary";

(6) in subsection (i)(2), by striking "Office of Special Education and Rehabilitation Services" and inserting "Office of Special Education and Rehabilitative Services";

(7) by amending subsection (j)(2) to read as follows:

Grants.
Contracts.

"(2) The Director shall establish, either directly or by way of grant or contract, a Research and Training Center in the Pacific Basin in order to improve services to individuals with handicaps through relevant rehabilitation research and training in the Pacific Basin and to assist in the coordination of rehabilitation services provided by a broad range of agencies and entities. Such center shall—

"(A) develop a sound demographic base,

"(B) analyze, develop, and utilize appropriate technology,

"(C) develop a culturally relevant rehabilitation manpower development program, and

"(D) facilitate interagency communication and cooperation, implementing advanced information technology."; and

(8) in subsection (l)—

(A) by striking "Committee on Handicapped Research" in the third sentence and inserting "Interagency Committee on Disability Research";

(B) by inserting a comma after "Further" in the fourth sentence; and

(C) by striking "Interagency Committee on Handicapped Research" in the last sentence and inserting "Interagency Committee on Disability Research".

(c) INTERAGENCY COMMITTEE.—Section 203(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 761b(a)(1)) is amended by striking 102 STAT. 3308
"Interagency Committee on Handicapped Research" and inserting "Interagency Committee on Disability Research".

(d) RESEARCH.—Section 204 of the Rehabilitation Act of 1973 (29 U.S.C. 762) is amended—

(1) in subsection (b)(1), by striking "centers" in the seventh sentence and inserting "Centers";

(2) in subsection (b)(2)(B), by striking "to" where it appears after "severe handicaps,";

(3) in subsection (b)(2)(C), by striking "to" where it appears after "handicaps, and";

(4) in subsection (b)(3)(A), by striking "centers," and inserting "Centers,";

(5) in subsection (b)(4), by striking "Conduct a" and inserting "Conduct of a";

(6) in subsection (b)(5), by striking "rehabilitation of the individuals" and inserting "rehabilitation of individuals";

(7) in subsection (b)(8)—

(A) by striking "handicapped children" and inserting "children with handicaps"; and

(B) by striking "handicapped Indian Americans" and inserting "American Indians with handicaps";

(8) in subsection (b)(9), by striking "handicapped and" and inserting "individuals with handicaps, including";

(9) in subsection (b)(11), by striking "handicapped children" the first place it appears and inserting "children with handicaps"; and

(10) in subsection (b)(11)(A), by striking "severely handicapped children" both places it appears and inserting "children with severe handicaps".

SEC. 204. SUPPLEMENTARY SERVICES AND FACILITIES.

(a) DECLARATION OF PURPOSE.—Section 300(3) of the Rehabilitation Act of 1973 (29 U.S.C. 770(3)) is amended by striking "handicapped migratory agricultural workers or seasonal farmworkers" and inserting "migratory agricultural workers with handicaps or seasonal farmworkers with handicaps".

(b) VOCATIONAL TRAINING SERVICES FOR INDIVIDUALS WITH HANDICAPS.—Section 302(b)(3)(D) of the Rehabilitation Act of 1973 (29 U.S.C. 772(b)(3)(D)) is amended by striking "meet" and inserting "meets".

(c) TRAINING.—Section 304 of the Rehabilitation Act of 1973 (29 U.S.C. 774) is amended—

(1) in subsection (a)(3), by striking "program,," and inserting "programs,";

(2) in subsection (b)(1)—

(A) by striking "those individuals who meet the definition of severely handicapped" and inserting "individuals with severe handicaps"; and

(B) by striking "ill and";

(3) in subsection (b)(3)(A)—

(A) by striking "grant of contract" and inserting "grant or contract"; and

(B) by striking "from" and inserting "utilizing";

(4) in subsection (d)(1), by striking "the Office of Information and Resources for the Handicapped" and inserting "the Office of Information and Resources for Individuals With Disabilities";

102 STAT. 3309

(5) in subsection (d)(2)(D), by striking "the Education for All Handicapped Children Act" and inserting "the Education of the Handicapped Act"; and

(6) in subsection (f), by striking "1991.." and inserting "1991.".

(d) COMPREHENSIVE REHABILITATION CENTERS.—Section 305(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 775(a)(1)) is amended by striking "handicapped persons" and inserting "individuals with handicaps".

(e) GENERAL GRANT AND CONTRACT REQUIREMENTS.—Section 306 of the Rehabilitation Act of 1973 (29 U.S.C. 776) is amended—

(1) in subsection (b)(4), by striking "related to" and inserting "relating to";

(2) in subsection (b)(5), by striking "with Davis-Bacon Act" and inserting "with the Davis-Bacon Act"; and

(3) in subsection (h), by inserting a comma after "When".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 310(a) of the Rehabilitation Act of 1973 (29 U.S.C. 777(a)) is amended by striking the parenthetical and inserting "(other than sections 311(d), 311(e), and 316)".

(g) SPECIAL DEMONSTRATION PROGRAMS.—Section 311 of the Rehabilitation Act of 1973 (29 U.S.C. 777a) is amended—

(1) in the first sentence of subsection (c)(1), by striking "handicapped youths" and inserting "youths with handicaps";

(2) in the first sentence of subsection (e)(1), by striking "severely handicapped youth" and inserting "youths with severe handicaps";

(3) in subsection (e)(3)(B)(ii), by striking "families." and inserting "families, will";

(4) in subsection (e)(3)(B)(iv)—

(A) by striking "designed" the second place it appears and inserting "designated"; and

(B) by striking "handicapped individual" and inserting "individual with handicaps"; and

(5) in subsection (e)(4)(B), by striking "both severely and mildly handicapped youth" and inserting "both youths with severe handicaps and youths with mild handicaps".

(h) MIGRATORY WORKERS.—Section 312 of the Rehabilitation Act of 1973 (29 U.S.C. 777b) is amended by striking "handicapped)" in the first sentence and inserting "such family members are individuals with handicaps)".

(i) READER SERVICES FOR THE BLIND.—Section 314(a)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 777d(a)(2)) is amended by striking "need" and inserting "needs".

(j) SPECIAL RECREATIONAL PROGRAMS.—(1) Part B of title III of the Rehabilitation Act of 1973 (29 U.S.C. 777-777f) is amended by inserting before section 316 the following heading:

29 USC 777f.

"SPECIAL RECREATIONAL PROGRAMS".

(2) Section 316(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 777f(a)(1)) is amended by striking "nonhandicapped peers" in the third sentence and inserting "peers without handicaps".

(k) REPEAL OF OBSOLETE PROVISION.—Part B of title III of the Rehabilitation Act of 1973 (29 U.S.C. 777-777f) is further amended by striking section 313 where it appears following section 316.

29 USC 777c note.

102 STAT. 3310

SEC. 205. NATIONAL COUNCIL ON DISABILITY.

(a) IN GENERAL.—The title heading for title IV of the Rehabilitation Act of 1973 (29 U.S.C. 780-785) is amended to read as follows:

"TITLE IV—NATIONAL COUNCIL ON DISABILITY".

(b) ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY.—Section 400 of the Rehabilitation Act of 1973 (29 U.S.C. 780) is amended—

(1) by amending the section heading to read as follows:

"ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY";

(2) in subsection (a)(1)—

(A) by striking "National Council on the Handicapped" and inserting "National Council on Disability"; and

(B) by striking "the handicapped" each place it appears and inserting "individuals with handicaps"; and

(3) in subsection (a)(2), by striking "handicapped individuals" and inserting "individuals with handicaps".

(c) DUTIES OF NATIONAL COUNCIL.—Section 401 of the Rehabilitation Act of 1973 (29 U.S.C. 781) is amended—

(1) in subsection (a), by striking "handicapped individuals" each place it appears and inserting "individuals with handicaps";

(2) in subsection (a)(4), by striking "persons with disabilities" each place it appears and inserting "individuals with disabilities";

(3) in subsection (a)(4)(B), by striking "assisted" and inserting "assist";

(4) in subsection (a)(7)(A), by striking "the handicapped" and inserting "individuals with handicaps";

(5) in subsection (a)(8), by inserting a comma after "recommendations"; and

(6) in subsection (b)(1), by striking "recommendation" and inserting "recommendations".

(d) COMPENSATION OF NATIONAL COUNCIL MEMBERS.—Section 402(a) of the Rehabilitation Act of 1973 (29 U.S.C. 782(a)) is amended by striking "traveltime" and inserting "travel time".

(e) STAFF OF NATIONAL COUNCIL.—Section 403(b)(2)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 783(b)(2)(B)) is amended to read as follows: Gifts and property.

"(B) in the name of the Council, accept, employ, and dispose of, in furtherance of this Act, any money or property, real or personal, or mixed, tangible or nontangible, received by gift, devise, bequest, or otherwise; and".

SEC. 206. MISCELLANEOUS.

(a) EMPLOYMENT OF INDIVIDUALS WITH HANDICAPS.—Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) is amended—

(1) by inserting after "Equal Employment Opportunity Commission" the first place it appears the following: "(hereafter in this section referred to as the 'Commission')";

(2) by striking "Equal Employment Opportunity Commission" the second place and each succeeding place it appears and inserting "Commission";

(3) in subsection (a)— 102 STAT. 3311

(A) by striking "Secretaries of Labor and Education and Health and Human Services" in the first sentence and inserting "Secretary of Labor, the Secretary of Education, and the Secretary of Health and Human Services";

(B) by striking "co-chairmen" in the second sentence and inserting "co-chairpersons"; and

(C) by striking "Employment of the Handicapped" in the second sentence and inserting "Employment of People With Disabilities";

(4) in subsection (a)(2), by striking "the Office" and inserting "the Commission";

(5) in subsection (b)—

(A) by striking "handicapped employees" in the second sentence and inserting "employees with handicaps"; and

(B) by striking "Office" each place it appears in the last sentence and inserting "Commission";

(6) in subsection (e), by striking "a individualized" and inserting "an individualized"; and

(7) in subsection (f), by striking "President's Committee on Employment of the Handicapped" each place it appears and

inserting "President's Committee on Employment of People With Disabilities".

(b) ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.—Section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2)(A) The term of office of each appointed member of the Board shall be three years. Each year, the terms of office of four appointed members of the board shall expire.

"(B) A member whose term has expired may continue to serve until a successor has been appointed.

"(C) A member appointed to fill a vacancy shall serve for the remainder of the term to which that member's predecessor was appointed.";

(2) in subsection (a)(3), by striking "he" and inserting "the member";

(3) in subsection (a)(5)(A), by striking "traveltime" and inserting "travel time";

(4) in subsection (b)(2), by inserting a comma after "surface transportation";

(5) in subsection (b)(4), by striking "Administrator of the General Services Administration" and inserting "Administrator of General Services";

(6) in subsection (b)(5), by striking "results to" and inserting "results of";

(7) in subsection (b)(8), by striking "physically handicapped persons" and inserting "individuals with physical handicaps";

(8) in subsection (c)(2)(A), by inserting a comma after "new or expanded transportation systems";

(9) in subsection (d)(2)(B), by striking "which related to" and inserting "that relate to";

(10) in the last sentence of subsection (f)—

(A) by striking the comma after "daily pay rate";

(B) by striking "title 45" and inserting "title 5"; and

(C) by striking "traveltime" and inserting "travel time"; and

102 STAT. 3312

(11) in subsection (g)—

(A) by striking "transportation barriers to individuals with handicaps" in the fourth sentence and inserting "transportation barriers facing individuals with handicaps"; and

(B) in the seventh sentence—

(i) by striking "transportation barriers of handicapped individuals" and inserting "transportation barriers facing individuals with handicaps"; and

(ii) by striking "housing needs of handicapped individuals" and inserting "housing needs of individuals with handicaps".

(c) EMPLOYMENT UNDER FEDERAL CONTRACTS.—Section 503 of the Rehabilitation Act of 1973 (29 U.S.C. 793) is amended—

(1) in subsection (a), by inserting a comma in the first sentence after "to carry out such contract";

(2) in subsection (b), by striking "refuses" in the first sentence and inserting "refused"; and

(3) in subsection (c), by striking "The President" each place it appears and inserting "the President".

(d) NONDISCRIMINATION UNDER FEDERAL GRANTS AND PROGRAMS.—Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) is amended—

(1) in the first sentence of subsection (a), by striking "his handicap" and inserting "her or his handicap"; and

(2) in subsection (b)(2)(B), by striking "section 198(a)(10)" and inserting "section 1471(12)".

(e) SECRETARIAL RESPONSIBILITIES.—Section 506 of the Rehabilitation Act of 1973 (29 U.S.C. 794b) is amended—

(1) by redesignating paragraphs (1) through (4) as subsections (a) through (d), respectively;

(2) by redesignating subparagraphs (A) and (B) of subsection (a) (as redesignated by paragraph (1)) as paragraphs (1) and (2), respectively;

(3) in subsection (b) (as redesignated by paragraph (1)), by striking "traveltime" and inserting "travel time"; and

(4) in subsection (c) (as redesignated by paragraph (1)), by inserting a comma after "the President" in the first sentence.

(f) ELECTRONIC EQUIPMENT ACCESSABILITY.—Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) is amended—

(1) in subsection (a)(1)—

(A) by inserting "the Director of" before "the National Institute";

(B) by striking "the General Services" and inserting "General Services"; and

(C) by striking "handicapped individuals" and inserting "individuals with handicaps";

(2) in subsection (a)(3), by inserting after "revised" the following: "by the Director of the National Institute on Disability and Rehabilitation Research and the Administrator of General Services in consultation with the electronics industry and the Interagency Committee for Computer Support of Handicapped Employees"; and

(3) in subsection (c), by striking "a handicapped individual" and inserting "an individual with handicaps".

102 STAT. 3313

SEC. 207. EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH HANDICAPS.

(a) ADMINISTRATION.—Section 612(b) of the Rehabilitation Act of 1973 (29 U.S.C. 795a(b)) is amended by striking "programs authorized under" in the first sentence and all that follows through the period at the end and inserting "the Job Training Partnership Act and the Community Services Block Grant Act.".

(b) PROJECTS WITH INDUSTRY.—Section 621 of the Rehabilitation Act of 1973 (29 U.S.C. 795g) is amended—

(1) in subsection (a)(1), by striking "people" and inserting "individuals";

(2) in subsection (a)(2)(D), by striking "handicapped individuals" and inserting "individuals with handicaps";

(3) in subsection (b)(1), by striking "assurances" and inserting "assurance";

(4) in subsection (b)(3), by striking "assurances" and inserting "assurance";

(5) in subsection (d)(1), by striking "section (a)(3)" and inserting "subsection (a)(4)";

(6) in subsection (d)(2), by striking "section (a)(3)" and inserting "subsection (a)(4)"; and

(7) in subsection (d)(4), by striking "National Council on the Handicapped" and inserting "National Council on Disability".

(c) BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH HANDICAPS.—Section 622 of the Rehabilitation Act of 1973 (29 U.S.C. 795h) is amended by striking "the Secretaries of Labor and Commerce" where it appears in the first sentence and inserting "the Secretary of Labor and the Secretary of Commerce".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 623 of the Rehabilitation Act of 1973 (29 U.S.C. 795i) is amended—

(1) by inserting a comma after "fiscal year 1991"; and

(2) by inserting a comma after "1990" the second place it appears.

(e) ALLOTMENTS.—Section 633 of the Rehabilitation Act of 1973 (29 U.S.C. 795l) is amended—

(1) in subsection (a)(1), by inserting a comma after "$250,000";

(2) in subsection (a)(2)(A), by striking "the term 'States' does not" and inserting "the term 'State' does not"; and

(3) in subsection (c)(1)—

(A) by inserting a comma after "section 638" in the first sentence; and

(B) by striking "appropriation" in the second sentence and inserting "application".

(f) STATE PLAN.—Section 634 of the Rehabilitation Act of 1973 (29 U.S.C. 795m) is amended—

(1) in subsection (a)—

(A) by striking "In order" and inserting "(1) Except as provided in paragraph (2),"; and

(B) adding at the end the following new paragraph:

"(2) This subsection shall not apply in any fiscal year ending before October 1, 1990, in which amounts appropriated for this part do not equal or exceed $5,000,000.";

(2) in subsection (b)(3)(C), by striking "subsection (b)(3)(D) of this part" and inserting "subparagraph (D) of this paragraph"; and

102 STAT. 3314

(3) in subsection (b)(3)(D), by striking "614(5)" and inserting "614(a)(5)".

(g) SERVICES; AVAILABILITY AND COMPARABILITY.—Section 635(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 795n) is amended—

(1) by inserting "the" before "provision";

(2) by inserting a comma before "consistent"; and

(3) by inserting a comma after "subsection (b)".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 638 of the Rehabilitation Act of 1973 (29 U.S.C. 795q) is amended by inserting "and" after "1990,".

SEC. 208. COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING.

(a) ELIGIBILITY.—Section 702(a) of the Rehabilitation Act of 1973 (29 U.S.C. 796a(a)) is amended—

(1) by inserting "that are" before "appreciably" the first place it appears; and

(2) by inserting "that are" before "of appreciably".

(b) ALLOTMENTS.—Section 703 of the Rehabilitation Act of 1973 (29 U.S.C. 796b) is amended by striking "subpart" each place it appears in subsections (a) and (b) and inserting "part".

(c) PAYMENTS TO STATES FROM ALLOTMENTS.—Section 704(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 796c(b)(2)) is amended by striking "subpart" and inserting "part".

(d) STATE PLANS.—Section 705(a)(4)(C) of the Rehabilitation Act of 1973 (29 U.S.C. 796d(a)(4)(C)) is amended—

(1) by inserting "will" after "that such program";

(2) by striking "section 112 of the Developmental Disabilities Services and Facilities Construction Act" and inserting "the Developmental Disabilities Assistance and Bill of Rights Act"; and

(3) by striking "the Education for All Handicapped Children Act of 1975" and inserting "the Education of the Handicapped Act".

(e) STATE INDEPENDENT LIVING COUNCILS.—Section 706 of the Rehabilitation Act of 1973 (29 U.S.C. 796d-1) is amended by striking "handicapped individuals" each place it appears and inserting "individuals with handicaps".

(f) GRANT PROGRAM ESTABLISHED.—Section 711 of the Rehabilitation Act of 1973 (29 U.S.C. 796e) is amended—

(1) in subsection (b)(3), by striking "handicapped individuals" and inserting "individuals with handicaps";

(2) in subsection (c)(2)(E), by inserting a comma after "recreation";

(3) in subsection (c)(2)(F), by inserting a comma after "recreational opportunities";

(4) in subsection (e)(4), by striking "National Council on the Handicapped" and inserting "National Council on Disability";

(5) in subsection (f)(1), by striking "evaluation standards in" and inserting "evaluation standards published under"; and

(6) in subsection (h), by striking "not served or underserved" and inserting "underserved or not served".

(g) SERVICE PROGRAM ESTABLISHED.—Section 721(a)(6) of the Rehabilitation Act of 1973 (29 U.S.C. 796f(a)(6)) is amended by striking "blind person" and inserting "blind individual".

(h) PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—Section 731(a) of the Rehabilitation Act of 1973 (29 U.S.C. 796g(a)) is amended in the first sentence by inserting "for" after "advocate". 102 STAT. 3315

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 741(d) of the Rehabilitation Act of 1973 (29 U.S.C. 796i(d)) is amended—

(1) in paragraph (1), by striking "and 1990" and inserting "1990, and 1991"; and

(2) in paragraph (2), by striking "moneys" and inserting "monies".

SEC. 209. CLERICAL AMENDMENTS.

The table of contents contained in section 1 of the Rehabilitation Act of 1973 (29 U.S.C. 701 note) is amended—

(1) by striking the item relating to section 132 and inserting the following:

"Sec. 131. Study of needs of American Indians with handicaps.";

(2) by striking the heading for the items relating to title II and inserting the following:

"TITLE II—RESEARCH AND TRAINING";

(3) by striking the heading for the items relating to title IV and inserting the following:

"TITLE IV—NATIONAL COUNCIL ON DISABILITY";

(4) by striking the item relating to section 400 and inserting the following:

"Sec. 400. Establishment of National Council on Disability."; and

(5) by striking the heading for the items relating to part C of title VI and inserting the following:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE HANDICAPS".

SEC. 210. CONFORMING AMENDMENT.

Subsection (b) of section 704 of the Rehabilitation Act Amendments of 1986 (the second place such section appears), relating to supported employment services for individuals with severe handicaps, is repealed. Employment. 29 USC 795m note.

TITLE III—AMENDMENTS RELATING TO THE PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES

SEC. 301. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.

(a) NATIONAL DISABILITY EMPLOYMENT AWARENESS MONTH.—The joint resolution entitled "Joint Resolution to establish the first week in October of each year as National Employ the Physically Handicapped Week", approved August 11, 1945, is amended— 36 USC 155.

(1) by amending the first sentence to read as follows: "That hereafter the month of October in each year shall be designated as National Disability Employment Awareness Month."; and

(2) in the second sentence—

(A) by striking "week" and inserting "month"; and

(B) by striking "handicapped workers" and inserting "workers with disabilities".

102 STAT. 3316

(b) PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.—The joint resolution entitled "Joint Resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week", approved July 11, 1949, is amended— 63 Stat. 409.

(1) by striking "National Employ the Physically Handicapped Week" the first place it appears and inserting "National Disability Employment Awareness Month";

(2) by striking "President's Committee on National Employ the Physically Handicapped Week" each place it appears and inserting "President's Committee on Employment of People With Disabilities"; and

(3) by adding at the end the following new section:

"SEC. 2. The President's Committee on Employment of People With Disabilities may—

Voluntarism.

"(1) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code; and

Gifts and property.

"(2) in the name of the Committee, accept, employ, and dispose of, in furtherance of this resolution, any money or property, real, personal, or mixed, tangible or nontangible, received by gift, devise, bequest, or otherwise.".

American Printing House for the Blind Amendments of 1988.

TITLE IV—AMENDMENTS RELATING TO THE AMERICAN PRINTING HOUSE FOR THE BLIND

20 USC 101 note.

SEC. 401. SHORT TITLE.

This title may be cited as the "American Printing House for the Blind Amendments of 1988".

SEC. 402. TERMINATION OF PERPETUAL TRUST.

(a) IN GENERAL.—The perpetual trust fund and permanent annual appropriations thereof established by the Act of March 3, 1879, ch. 186, 20 Stat. 467, 468, as amended by the Act of June 25, 1906, ch. 3536, 34 Stat. 460 (codified in part in 20 U.S.C. 101) are terminated.

20 USC 101 note.

(b) EFFECTIVE DATE.—This section shall take effect on October 1, 1989.

SEC. 403. PRESERVATION OF AUTHORIZATION OF APPROPRIATIONS.

The Act of August 4, 1919, ch. 31, 41 Stat. 272, as amended by section 4 of Public Law 87-294, 75 Stat. 627 (codified in part in 20 U.S.C. 101) is further amended by striking "in addition to the permanent appropriation of $10,000 made in the Act entitled 'An Act to promote the education of the blind', approved March 3, 1879, as amended".

20 USC 101 note.

SEC. 404. COMPENSATION.

Any and all rights of the American Printing House for the Blind determined to have vested in the perpetual trust fund established by the Act of March 3, 1879, shall be deemed to be compensated by the appropriation to the American Printing House for the Blind for fiscal year 1990.

102 STAT. 3317

20 USC 101 note.

SEC. 405. REFERENCE.

Notwithstanding any Federal law, reference to the perpetual trust fund and permanent annual appropriations thereof established by the Act of March 3, 1879, shall not be given any effect.

TITLE V—AMENDMENTS TO THE HELEN KELLER NATIONAL CENTER ACT

SEC. 501. EXTENSION OF PROGRAM AUTHORIZATION.

Section 205 of the Helen Keller National Center Act (29 U.S.C. 1904) is amended by striking "1990" and inserting "1991".

Approved November 7, 1988.

LEGISLATIVE HISTORY—H.R. 5334 (S. 2821):

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 12, considered and passed Senate.

Public Law 100-301
100th Congress

102 STAT. 443

An Act

To establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes.

Apr. 29, 1988
[S. 90]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Big Cypress National Preserve Addition Act.
National Wilderness Preservation System.
Conservation.
Public lands.
16 USC 698f note.

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Big Cypress National Preserve Addition Act".

(b) AMENDMENT OF BIG CYPRESS NATIONAL PRESERVE ACT.—Whenever in this Act an amendment is expressed in terms of an amendment to the Act of October 11, 1974, such amendment shall be considered to be made to the Act entitled "An Act to establish the Big Cypress National Preserve in the State of Florida, and for other purposes", approved October 11, 1974 (Public Law 93-440; 88 Stat. 1257).

SEC. 2. FINDINGS AND PURPOSE.

16 USC 698f note.

(a) FINDINGS.—The Congress finds that—

(1) the planned construction of Interstate 75 is presently being designed in such a way as to improve the natural water flow to the Everglades National Park, which has been disrupted by State Road 84 (commonly known as "Alligator Alley");

(2) the planned construction of Interstate 75 provides an opportunity to enhance protection of the Everglades National Park, to promote protection of the endangered Florida panther, and to provide for public recreational use and enjoyment of public lands by expanding the Big Cypress National Preserve to include those lands adjacent to Interstate 75 in Collier County north and east of the Big Cypress National Preserve, west of the Broward County line, and south of the Hendry County line;

(3) the Federal acquisition of lands bordering the Big Cypress National Preserve in conjunction with the construction of Interstate 75 would provide significant public benefits by limiting development pressure on lands which are important both in terms of fish and wildlife habitat supporting endangered species and of wetlands which are the headwaters of the Big Cypress National Preserve; and

(4) public ownership of lands adjacent to the Big Cypress National Preserve would enhance the protection of the Everglades National Park while providing recreational opportunities and other public uses currently offered by the Big Cypress National Preserve.

(b) PURPOSE.—It is the purpose of this Act to establish the Big Cypress National Preserve Addition.

102 STAT. 444

SEC. 3. ESTABLISHMENT OF ADDITION.

(a) BIG CYPRESS NATIONAL PRESERVE ADDITION.—The Act of October 11, 1974, is amended by adding at the end thereof the following new section:

"SEC. 9. (a) In order to—

16 USC 698m-1.

"(1) achieve the purposes of the first section of this Act;

"(2) complete the preserve in conjunction with the planned construction of Interstate Highway 75; and

"(3) insure appropriately managed use and access to the Big Cypress Watershed in the State of Florida,

the Big Cypress National Preserve Addition is established.

Public information.

"(b) The Big Cypress National Preserve Addition (referred to in this Act as the 'Addition') shall comprise approximately 146,000 acres as generally depicted on the map entitled Big Cypress National Preserve Addition, dated April, 1987, and numbered 176-91000C, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior, Washington, D.C., and shall be filed with appropriate offices of Collier County in the State of Florida. The Secretary shall, as soon as practicable, publish a detailed description of the boundaries of the Addition in the Federal Register.

Federal Register, publication.

"(c) The area within the boundaries depicted on the map referred to in subsection (b) shall be known as the 'Big Cypress National Preserve Addition' and shall be managed in accordance with section 4.

"(d) For purposes of administering the Addition and notwithstanding section 2(c), it is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated with respect to the Addition in not more than five years after the date of the enactment of this paragraph.".

(b) HUNTING, FISHING, AND TRAPPING.—Section 5 of the Act of October 11, 1974, is amended by inserting "and the Addition" after "preserve" each place it appears.

16 USC 698j.

(c) SUITABILITY AS WILDERNESS.—Section 7 of the Act of October 11, 1974, is amended—

16 USC 698l.

(1) by inserting "with respect to the preserve and five years from the date of the enactment of the Big Cypress National Preserve Addition Act with respect to the Addition" after "date of the enactment of this Act" in the first sentence; and

(2) by inserting "or the area within the Addition (as the case may be)" after "preserve" each place it appears.

16 USC 698k.

(d) INDIAN RIGHTS.—Section 6 of the Act of October 11, 1974, is amended as follows:

(1) In clause (i) insert "and the Addition" after "preserve" and insert "(January 1, 1985, in the case of the Addition)" after "1972".

(2) In clause (ii) insert "or within the Addition" after "preserve".

SEC. 4. ACQUISITION OF LAND WITHIN ADDITION.

16 USC 698f.

(a) UNITED STATES SHARE OF ACQUISITION COSTS.—The first section of the Act of October 11, 1974, is amended by adding at the end thereof the following new subsection:

"(d)(1) The aggregate cost to the United States of acquiring lands within the Addition may not exceed 80 percent of the total cost of such lands.

102 STAT. 445

"(2) Except as provided in paragraph (3), if the State of Florida transfers to the Secretary lands within the Addition, the Secretary shall pay to or reimburse the State of Florida (out of funds appropriated for such purpose) an amount equal to 80 percent of the total costs to the State of Florida of acquiring such lands.

"(3) The amount described in paragraph (1) shall be reduced by an amount equal to 20 percent of the amount of the total cost incurred by the Secretary in acquiring lands in the Addition other than from the State of Florida.

"(4) For purposes of this subsection, the term 'total cost' means that amount of the total acquisition costs (including the value of exchanged or donated lands) less the amount of the costs incurred by the Federal Highway Administration and the Florida Department of Transportation, including severance damages paid to private property owners as a result of the construction of Interstate 75.".

(b) METHODS OF LAND ACQUISITION IN THE ADDITION.—The first sentence of subsection (c) of the first section of the Act of October 11, 1974, is amended— 16 USC 698f.

(1) by inserting "or the Addition" after "preserve" the first place it appears; and

(2) in the first proviso—

(A) by inserting "in the preserve" after "subdivisions,"; and

(B) by striking out the colon and inserting in lieu thereof "and, any land acquired by the State of Florida, or any of its subdivisions, in the Addition shall be acquired in accordance with subsection (d):".

(c) VALUATION AND APPRAISAL.—The fourth sentence of subsection (c) of such section is amended by inserting "or the Addition" after "preserve" each place it appears.

(d) ACQUISITION OF PROPERTY RIGHTS BY THE STATE OF FLORIDA.—Subsection (c) of such section is amended by adding at the end thereof the following: "Nothing in this Act shall be construed to interfere with the right of the State of Florida to acquire such property rights as may be necessary for Interstate 75.".

(e) EXCLUSION OF SUBSURFACE ESTATE.—The third sentence of subsection (c) of such section is amended by inserting "and the Addition" after "preserve" each place it appears.

(f) IMPROVED PROPERTY IN ADDITION.—Section 3(b) of the Act of October 11, 1974, is amended— 16 USC 698h.

(1) in clause (i) by inserting "with respect to the preserve and January 1, 1986, with respect to the Addition" after "November 23, 1971,"; and

(2) in clause (ii)—

(A) by inserting "with respect to the preserve and January 1, 1986, with respect to the Addition" after "November 23, 1971," the first place it appears; and

(B) by inserting "or January 1, 1986, as the case may be," after "November 23, 1971," the second and third places it appears.

SEC. 5. COOPERATION AMONG AGENCIES.

The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

"SEC. 10. The Secretary and other involved Federal agencies shall cooperate with the State of Florida to establish recreational access points and roads, rest and recreation areas, wildlife protection, hunting, fishing, frogging, and other traditional recreational opportunities in conjunction with the creation of the Addition and in the construction of Interstate Highway 75. Three of such access points shall be located within the preserve (including the Addition).". Recreation. 16 USC 698m-2.

102 STAT. 446

SEC. 6. REPORT TO CONGRESS.

The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

"SEC. 11. Not later than two years after the date of the enactment of this section, the Secretary shall submit to the Congress a detailed report on, and further plan for, the preserve and Addition including— 16 USC 698m-3.

"(1) the status of the existing preserve, the effectiveness of past regulation and management of the preserve, and recommendations for future management of the preserve and the Addition;

"(2) a summary of the public's use of the preserve and the status of the access points developed pursuant to section 10;

"(3) the need for involvement of other State and Federal agencies in the management and expansion of the preserve and Addition;

"(4) the status of land acquisition; and

"(5) a determination, made in conjunction with the State of Florida, of the adequacy of the number, location, and design of

the recreational access points on I-75/Alligator Alley for access to the Big Cypress National Preserve, including the Addition. The determination required by paragraph (5) shall incorporate the results of any related studies of the State of Florida Department of Transportation and other Florida State agencies. Any recommendation for significant changes in the approved recreational access points, including any proposed additions, shall be accompanied by an assessment of the environmental impact of such changes.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

16 USC 698m. Section 8 of the Act of October 11, 1974, is amended—

(1) by striking out "There" in the first sentence and inserting in lieu thereof "(a) Except as provided in subsection (b), there"; and

(2) by adding at the end thereof the following new subsection:

"(b) There is hereby authorized to be appropriated from the Land and Water Conservation Fund not to exceed $49,500,000 for the acquisition of lands within the Addition. There is hereby authorized to be appropriated such sums as may be necessary for development in the Addition.

SEC. 8. OIL AND GAS EXPLORATION, DEVELOPMENT AND PRODUCTION.

The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

Regulations. 16 USC 698m-4. "SEC. 12. (a) Within nine months from the date of the enactment of the Big Cypress National Preserve Addition Act, the Secretary shall promulgate, subject to the requirements of subsections (b)-(e) of this section, such rules and regulations governing the exploration for and development and production of non-Federal interests in oil and gas located within the boundaries of the Big Cypress National

102 STAT. 447 Preserve and the Addition, including but not limited to access on, across, or through all lands within the boundaries of the Big Cypress National Preserve and the Addition for the purpose of conducting such exploration or development and production, as are necessary and appropriate to provide reasonable use and enjoyment of privately owned oil and gas interests, and consistent with the purposes for which the Big Cypress National Preserve and the Addition were established. Rules and regulations promulgated pursuant to the authority of this section may be made by appropriate amendment to or in substitution of the rules and regulations respecting non-Federal oil and gas rights (currently codified at 36 CFR 9.30, et seq. (1986)).

"(b) Any rule or regulation promulgated by the Secretary under subsection (a) of this section shall provide that—

"(1) exploration or development and production activities may not be undertaken, except pursuant to a permit issued by the National Park Service authorizing such activities or access; and

"(2) final action by the National Park Service with respect to any application for a permit authorizing such activities shall occur within 90 days from the date such an application is submitted unless—

"(A) the National Park Service and the applicant agree that such final action shall occur within a shorter or longer period of time; or

"(B) the National Park Service determines that an additional period of time is required to ensure that the National Park Service has, in reviewing the application, complied with other applicable law, Executive orders and regulations; or

"(C) the National Park Service, within 30 days from the date of submission of such application, notifies the applicant that such application does not contain all information reasonably necessary to allow the National Park Service to consider such application and requests that such additional information be provided. After receipt of such notification to the applicant, the applicant shall supply any reasonably necessary additional information and shall advise the National Park Service that the applicant believes that the application contains all reasonably nec-

essary information and is therefore complete, whereupon the National Park Service may—

"(i) within 30 days of receipt of such notice from the applicant to the National Park Service determine that the application does not contain all reasonably necessary additional information and, on that basis, deny the application; or

"(ii) review the application and take final action within 60 days from the date that the applicant provides notification to the National Park Service that its application is complete.

"(c) Such activities shall be permitted to occur if such activities conform to requirements established by the National Park Service under authority of law.

"(d) In establishing standards governing the conduct of exploration or development and production activities within the boundaries of the Big Cypress National Preserve or the Addition, the Secretary shall take into consideration oil and gas exploration and development and production practices used in similar habitats or ecosystems within the Big Cypress National Preserve or the Addition at the time of promulgation of the rules and regulations under subsection (a) or at the time of the submission of the application seeking authorization for such activities, as appropriate. 102 STAT. 448

"(e) Prior to the promulgation of rules or regulations under this section, the Secretary is authorized, consistent with the purposes of which the Big Cypress National Preserve Addition was established, to enter into interim agreements with owners of non-Federal oil and gas interests governing the conduct of oil and gas exploration, development or production activities within the boundaries of the Addition, which agreements shall be superseded by the rules and regulations promulgated by the Secretary when applicable: *Provided,* That such agreement shall be consistent with the requirements of subsections (b)–(d) of this section and may be altered by the terms of rules and regulations subsequently promulgated by the Secretary: *Provided further,* That this provision shall not be construed to enlarge or diminish the authority of the Secretary to establish rules and regulations applicable to the conduct of exploration or development and production activities within the Big Cypress National Preserve or the Addition. Contracts.

"(f) There is hereby authorized to be established a Minerals Management Office within the Office of the Superintendent of the Big Cypress National Preserve, for the purpose of ensuring, consistent with the purposes for which the Big Cypress National Preserve was established, timely consideration of and final action on applications for the exploration or development and production of non-Federal oil and gas rights located beneath the surface of lands within the boundaries of the Big Cypress National Preserve and the Addition.

"(g) There are hereby authorized to be appropriated such sums as may be necessary to carry out the activities set forth in this section.". Appropriation authorization.

Approved April 29, 1988.

LEGISLATIVE HISTORY—S. 90 (H.R. 184):

HOUSE REPORTS: No. 100-30 accompanying H.R. 184 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-45 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Mar. 31, H.R. 184 considered and passed House.
Dec. 11, S. 90 considered and passed Senate.
Vol. 134 (1988): Mar. 7, considered and passed House, amended.
Mar. 31, Senate concurred in House amendments with amendments.
Apr. 12, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Apr. 29, Presidential statement.

102 STAT. 469 Public Law 100-318
100th Congress

An Act

May 13, 1988
[S. 2273]

To provide for the transfer of certain funds to the Secretary of the Interior for the benefit of certain members of the Crow Tribe.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF FUNDS.

Grants.

(a) Notwithstanding any other provision of law, the Secretary of Health and Human Services shall transfer to the Secretary of the Interior $180,000 of the funds appropriated to provide a grant to the Crow Tribe under section 2604(d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(d)) for fiscal year 1988.

(b) The funds transferred under this section and any other fiscal year 1988 funds, appropriated pursuant to the Low-Income Home Energy Assistance Program, which have been retained by the Secretary of Health and Human Services and which have been allocated, but not distributed, for the benefit of the Crow Tribe, shall remain available for that purpose until expended.

SEC. 2. USE OF TRANSFERRED FUNDS.

Contracts.

The Secretary of the Interior and the Secretary of Health and Human Services shall enter into an Interagency Agreement for the administration on an expedited basis of the funds transferred under section 1. The Agreement shall include assurances that the Secretary of the Interior shall follow the requirements contained in paragraphs (1), (2), (5), (7), (8), and (13) of subsection 2605(b) of the Low-Income Home Energy Assistance Act of 1981 and such terms regarding the provision of technical assistance as the Secretaries may deem necessary. All such funds shall be used to provide, through the Crow Agency Social Services Program of the Bureau of Indian Affairs, the assistance and benefits otherwise available under the Low-Income Home Energy Assistance Act of 1981 to households who meet the eligibility criteria established by the Crow Tribe in its grant application for fiscal year 1988 and the agreement between the State of Montana and the Crow Tribe for such year.

Claims.

There shall be equitable consideration of claims or applications involving all forms of energy. If direct vendor payments are made, the vendor shall agree to refrain from termination of service to an eligible household until such time as all administrative actions involving withholding of fiscal year 1988 grants under the Low-Income Home Energy Assistance Act of 1981 from the Crow Tribe have been resolved. The provisions of the Interagency Agreement shall be in lieu of any other legal requirements that would otherwise be applicable to the administration of such funds or the assistance and benefits to be provided with such funds.

102 STAT. 470

SEC. 3. CONSTRUCTION.

Nothing in this Act may be construed to affect administrative actions relating to grants received by the Crow Tribe under section 2604(d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(d)) for fiscal year 1988 or preceding fiscal years or the eligibility of the Crow Tribe to receive a grant for fiscal year 1989, or any succeeding fiscal year.

Approved May 13, 1988.

LEGISLATIVE HISTORY—S. 2273:

SENATE REPORTS: No. 100-315 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 18, considered and passed Senate.
Apr. 28, considered and passed House, amended. Senate concurred in House amendment.

Secretary shall transmit these documents to the House of Representatives Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources.

Contracts.

"(b) The National Park Service and the owner of the Sewall-Belmont House shall enter into negotiations to prepare a revised cooperative agreement detailing the respective responsibilities of each party, including actions to be taken by each party in order to facilitate greater cooperation between them. The National Park Service shall transmit to the respective committees the revised cooperative agreement within 30 days after its execution.".

SEC. 2. EXPANSION OF THE DELTA REGION PRESERVATION COMMISSION.

16 USC 230f.

Section 907(a) of Public Law 95-625, as amended, is further amended as follows:

(1) In clause (6), strike "region; and" and insert "region;".

(2) In clause (7), strike "Arts." and insert "Arts; and".

(3) Add the following new clause:

"(8) one member who shall have experience as a folklorist and who is familiar with the cultures of the Mississippi Delta Region appointed by the Secretary of the Smithsonian Institution.".

Northern Mariana Islands.

SEC. 3. SAIPAN HARBOR AND SAN JOSE HARBOR PROJECTS.

(a) There is authorized to be appropriated to the Secretary of the Interior such sums as are necessary for construction of the Saipan harbor project in the Northern Mariana Islands, in accordance with the May 1987 draft feasibility report of the Honolulu District Engineer.

102 STAT. 668

(b) There is authorized to be appropriated such sums as are necessary for project planning, design, and construction for replacement of the main breakwater and for necessary dredging of the San Jose harbor on the Island of Tinian in the Northern Mariana Islands. The cost-sharing provisions of Public Law 99-662 shall apply to the project, and particular consideration shall be given to possible defense uses of the harbor in determining the benefits of this project.

Approved June 28, 1988.

LEGISLATIVE HISTORY—H.R. 2203 (S. 1682):

HOUSE REPORTS: No. 100-611 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-356 accompanying S. 1682 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 23, considered and passed House.
June 6, considered and passed Senate, amended.
June 14, House concurred in Senate amendment.

102 STAT. 1041

Public Law 100-406
100th Congress

An Act

To establish the Grays Harbor National Wildlife Refuge.

Aug. 19, 1988
[S. 1979]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Birds.
Conservation.
Washington.
16 USC 668dd note.

SECTION 1. FINDINGS.

The Congress finds that—

(1) Grays Harbor, a ninety-four-square-mile estuary on the coast of the State of Washington, is of critical importance to certain migratory shorebirds and waterfowl and provides important habitat for many types of fish and wildlife, including threatened and endangered species;

(2) the area known as Bowerman Basin is a tidal mudflat within the Grays Harbor estuary which attracts hundreds of thousands of migratory shorebirds during spring and fall migrations as well as peregrine falcons and other raptors;

(3) the Bowerman Basin provides extraordinary recreational, research, and educational opportunities for students, scientists, birdwatchers, nature photographers, the physically handicapped, and others;

(4) the Bowerman Basin is an internationally significant environmental resource that is unprotected and may require active management to prevent vegetative encroachment and to otherwise protect and enhance its habitat values; and

(5) the Bowerman Basin has been identified in the Grays Harbor Estuary Management Plan, prepared by Grays Harbor Regional Planning Commission, as an area deserving permanent protection.

SEC. 2. PURPOSES.

The purposes for which the Grays Harbor National Wildlife Refuge is established and shall be managed for include—

(1) to conserve fish and wildlife populations and their habitats, including but not limited to those of western sandpiper, dunlin, red knot, long-billed dowitcher, short-billed dowitcher, other shorebirds, and other migratory birds, including birds of prey; Fish and fishing.

(2) to fulfill international treaty obligations of the United States with regard to fish and wildlife and their habitats; International agreements.

(3) to conserve those species known to be threatened with extinction; and

(4) to provide an opportunity, consistent with the purposes set forth in paragraphs (1), (2), and (3), for wildlife-oriented recreation, education, and research.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "refuge" means the Grays Harbor National Wildlife Refuge.

(2) The term "lands and waters" includes interests in lands and waters.

(3) The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

SEC. 4. ESTABLISHMENT OF REFUGE. Real property. Water.

(a)(1) The Secretary is authorized and directed to establish, as herein provided, a national wildlife refuge to be known as the Grays Harbor National Wildlife Refuge.

(2) There shall be included within the boundaries of the refuge those lands, marshes, tidal flats, submerged lands, and open waters in the State of Washington generally depicted on a map entitled "Grays Harbor National Wildlife Refuge", dated December, 1987, which comprise approximately one thousand eight hundred acres.

(3) Said boundary map shall be on file and available for public inspection in the office of the Director of the Fish and Wildlife Service, Department of the Interior, and in appropriate offices of the Fish and Wildlife Service in the State of Washington. Public information.

(b) BOUNDARY REVISIONS.—The Secretary may make such minor revisions in the boundaries designated under subsection (a) as may be necessary to carry out the purposes of the refuge and to facilitate the acquisition of property within the refuge.

(c) ACQUISITION.—(1) The Secretary shall, not later than the 3rd anniversary of the effective date of this Act, acquire by transfer or purchase, or both, the approximately one thousand seven hundred eleven acres of lands and waters owned by the Port of Grays Harbor within the refuge and identified as Management Unit 12, Area 1, in the Grays Harbor Estuary Management Plan.

SEC. 8. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act, or January 1, 1988, whichever date occurs later.

Approved August 19, 1988.

LEGISLATIVE HISTORY—S. 1979:

SENATE REPORTS: No. 100-403 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 7, considered and passed Senate.
Aug. 8, considered and passed House.

Public Law 100-411
100th Congress

102 STAT. 1097

An Act

To settle certain land claims of the Coushatta Tribe of Louisiana against the United States, to authorize the use and distribution of the settlement funds, and for other purposes.

Aug. 22, 1988
[H.R. 3617]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SETTLEMENT PAYMENT.

(a)(1) The Secretary of the Treasury is authorized and directed to pay to the Secretary of the Interior (hereinafter referred to as the "Secretary") for the benefit of the Coushatta Tribe of Louisiana (hereinafter referred to as the "Tribe"), out of any money in the Treasury not otherwise appropriated, the sum of $1,300,000.

(2) Such sum represents the value of a settlement reached between the Tribe and the United States in a dispute over the uncompensated taking by the United States of land owned or occupied by the Tribe or its historical predecessor-in-interest in the 19th Century.

(b) The payment of such sum shall be in full settlement of, and shall finally dispose of, all rights, claims or demands which the Tribe has asserted, or could have asserted, against the United States under the provisions of the Act of August 13, 1946 (60 Stat. 1049).

(c) Upon payment of the funds as provided in subsection (a), the Secretary shall hold, manage and invest such funds, less—

(1) the amount paid to the Tribe pursuant to section 2(b), and

(2) any amount paid as attorney fees or expenses pursuant to section 4, as tribal trust funds until disposed of as provided by section 2 of this Act.

SEC. 2. USE AND DISTRIBUTION OF FUNDS.

(a) All available funds invested by the Secretary pursuant to section 1 plus all accrued interest or income, less the amount reserved for tribal organization pursuant to section 4, shall be distributed as provided in this section.

(b)(1) The Tribe, with the assistance and approval of the Secretary, shall develop a plan for the use and distribution of the funds held by the Secretary pursuant to section 1.

(2) Upon payment by the Secretary of the Treasury of the amount provided in section 1, the Secretary shall, prior to investing such funds, immediately make available to the Tribe 3 per centum of such funds to assist the Tribe in developing such plan and shall render such other advice and assistance as the Tribe may require.

(c) Prior to approving a plan submitted pursuant to subsection (b), the Secretary shall be assured that—

(1) tribal members were reasonably consulted during the development of the plan; and

(2) the plan complies with paragraphs (3), (5), and (6) of section
102 STAT. 1098 3(b) of the Act of October 19, 1973 (25 U.S.C. 1403).

(d)(1) In the event that the plan provides for the per capita distribution of any portion of the funds to the members of the Tribe, such per capita payments shall be made as provided in this subsection.

Records.

(2)(A) Within one hundred and eighty days after the approval, by the Secretary, of a plan for the use and distribution of funds as provided in subsection (c), the Secretary shall prepare a roll of all persons who—

(i) were born on or prior to and living on the date of enactment of this Act,

(ii) are persons—

(I) on the roll prepared by the Tribe which is on file with the Office of the Assistant Secretary of the Interior for Indian Affairs, or

(II) who can show, by evidence satisfactory to the Secretary, that such person is at least one-fourth degree of Coushatta Tribe of Louisiana blood, and

(iii) are not enrolled with any other Indian tribe.

Federal Register, publication.

(B)(i) Within thirty days after the date of the Secretarial approval of a plan, the Secretary shall publish in the Federal Register a notice of the right of persons to apply for enrollment under subparagraph (A)(i)(II) of this paragraph and shall, contemporaneously, publish such notice in an appropriate newspaper or newspapers of general circulation, including those in the parish within which the Tribe is located.

(ii) Applications submitted for enrollment pursuant to subparagraph (A)(i)(II) must be submitted within ninety days after the publication of the notice in the Federal Register as required by this subparagraph.

(C) The determination of the Secretary of the eligibility of an applicant under subparagraph (A)(i)(II) of this paragraph for enrollment under this subsection shall be final.

(3)(A) Upon final approval of the roll by the Secretary, the funds provided for per capita payments under the plan adopted pursuant to this section shall be paid in equal shares to persons on such roll.

(B) Payments made pursuant to this paragraph shall be subject to the provisions of section 7 of the Act of October 19, 1973 (25 U.S.C. 1407).

SEC. 3. ATTORNEY FEES.

Law enforcement and crime.

Not more than 10 per centum of the payment specified in section 1(a) shall be paid to, or received by, any agent or attorney as consideration for any services rendered in connection with such payment, any contract to the contrary notwithstanding. Violation of this section shall be deemed a misdemeanor punishable by a fine of not more than $1,000.

SEC. 4. TRIBAL ORGANIZATION.

(a) The provisions of the Act of June 18, 1934 (25 U.S.C. 461 et seq.) are made applicable to the Coushatta Tribe of Louisiana and the Tribe is authorized to organize under section 16 of such Act.

(b) For the purpose of such organization, the base roll of the Tribe shall be the roll established pursuant to section 2(d) of this Act.

(c)(1) The Secretary shall reserve, for a period of three years, from the funds authorized to be distributed pursuant to section 2 an
102 STAT. 1099 amount equal to 5 per centum of such funds.

(2) Upon notification by the Tribe of its intent to organize under this section and upon the request of the Tribe, the Secretary shall disburse to the Tribe the amount reserved pursuant to this subsection, plus any accrued interest or income, for purposes of assisting the Tribe in its organizational efforts.

(3) If the Tribe has not requested such funds for organizational purposes by the end of such three year period, the Secretary shall disburse the funds to the Tribe for such purposes as it may desire.

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.R. 3617:

HOUSE REPORTS: No. 100-565, Pt. 1 (Comm. on the Judiciary) and Pt. 2 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 13, considered and passed House.
Aug. 11, considered and passed Senate.

Public Law 100-415
100th Congress

102 STAT. 1104

An Act

To amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes.

Aug. 22, 1988
[H.R. 4754]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Pennsylvania Avenue Development Corporation Act of 1972 (86 Stat. 1266, as amended, 40 U.S.C. 871), is amended as follows: At the end of section 17(a), insert the following: "There are further authorized to be appropriated for operating and administrative expenses of the Corporation $2,353,000 for the fiscal year 1989; $2,650,000 for the fiscal year 1990; $2,400,000 for the fiscal year 1991; and $2,200,000 for the fiscal year 1992.".

40 USC 885.

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.R. 4754 (S. 2318):

HOUSE REPORTS: No. 100-836 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-462 accompanying S. 2318 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 8, considered and passed House.
Aug. 9, considered and passed Senate.

Public Law 100-421
100th Congress

102 STAT. 1581

An Act

To authorize the establishment of the Charles Pinckney National Historic Site in the State of South Carolina, and for other purposes.

Sept. 8, 1988
[H.R. 3960]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.
National parks, monuments, etc.
16 USC 461 note.

SECTION 1. ESTABLISHMENT OF CHARLES PINCKNEY NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—In order to provide for the benefit, inspiration, and education of the American people, there is hereby established the Charles Pinckney National Historic Site (hereinafter in this Act referred to as the "historic site") in the State of South Carolina.

(b) MAP.—The historic site shall consist of the lands and interests in lands, and improvements thereon, including the Snee Farm, as generally depicted on the map entitled "Charles Pinckney National Historic Site", numbered NA-CPNHS 80,000 and dated June 1988.

Gifts and property.

SEC. 2. ACQUISITION OF PROPERTY.

The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to acquire lands, interests in lands, and improvements within the boundaries of the historic site by donation, purchase with donated or appropriated funds, or exchange. The Secretary may also acquire by the same methods, personal property associated with, and appropriate for interpretation of, the site.

SEC. 3. ADMINISTRATION OF HISTORIC SITE.

The Secretary shall administer the historic site in accordance with the provisions of law generally applicable to units of the National Park System, including the Act of August 21, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461). In administering the historic site, the Secretary shall—

(1) provide the interpretation of the life of Charles Pinckney;

(2) preserve and interpret Snee Farm, home of Charles Pinckney; and

(3) present the history of the United States as a young Nation.

SEC. 4. GENERAL MANAGEMENT PLAN.

Within 3 complete fiscal years after the enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a general management plan for the historic site. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1—1a-7). Such plan shall identify appropriate facilities for proper interpretation of the site for visitors.

102 STAT. 1582

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved September 8, 1988.

LEGISLATIVE HISTORY—H.R. 3960:

HOUSE REPORTS: No. 100-698 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-453 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 20, considered and passed House.
Aug. 10, considered and passed Senate.

102 STAT. 1615

Public Law 100-428
100th Congress

An Act

Sept. 9, 1988
[S. 2641]

To authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildfire protection.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Temporary Emergency Wildfire Suppression Act".

Temporary Emergency Wildfire Suppression Act.
42 USC 1856a note.

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term "fire organization" means any governmental, public, or private entity having wildfire protection resources; 42 USC 1856a note.

(2) the term "wildfire protection resources" means personnel, supplies, equipment, and other resources required for wildfire presuppression and suppression activities; and

(3) the term "wildfire" means any forest or range fire.

SEC. 3. IMPLEMENTATION. 42 USC 1856a note.

(a)(1) The Secretary of Agriculture or the Secretary of the Interior, in consultation with the Secretary of State, may enter into a reciprocal agreement with any foreign fire organization for mutual aid in furnishing wildfire protection resources for lands and other properties for which such Secretary or organization normally provides wildfire protection.

(2) Any agreement entered into under this subsection—

(A) shall include a waiver by each party to the agreement of all claims against every other party to the agreement for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement; Claims.

(B) shall include a provision to allow the termination of such agreement by any party thereto after reasonable notice; and

(C) may provide for the reimbursement of any party thereto for all or any part of the costs incurred by such party in furnishing wildfire protection resources for, or on behalf of, any other party thereto.

(b) In the absence of any agreement authorized under subsection (a), the Secretary of Agriculture or the Secretary of the Interior may—

(1) furnish emergency wildfire protection resources to any foreign nation when the furnishing of such resources is determined by such Secretary to be in the best interest of the United States, and

(2) accept emergency wildfire protection resources from any foreign fire organization when the acceptance of such resources is determined by such Secretary to be in the best interest of the United States.

(c) Notwithstanding the preceding provisions of this section, reimbursement may be provided for the costs incurred by the Government of Canada or a Canadian organization in furnishing wildfire protection resources to the Government of the United States under— Canada.

102 STAT. 1616

(1) the memorandum entitled "Memorandum of Understanding Between the United States Department of Agriculture and Environment Canada on Cooperation in the Field of Forestry-Related Programs" dated June 25, 1982; and

(2) the arrangement entitled "Arrangement in the Form of an Exchange of Notes Between the Government of Canada and the Government of the United States of America" dated May 4, 1982.

(d) Any service performed by any employee of the United States under an agreement or otherwise under this Act shall constitute service rendered in the line of duty in such employment. The performance of such service by any other individual shall not make such individual an employee of the United States.

SEC. 4. FUNDS. 42 USC 1856a note.

Funds available to the Secretary of Agriculture or the Secretary of the Interior for wildfire protection resources in connection with activities under the jurisdiction of such Secretary may be used to carry out activities authorized under agreements or otherwise under this Act, or for reimbursements authorized under section 3(c): *Provided,* That no such funds may be expended for wildfire protection resources or personnel provided by a foreign fire organization unless the Secretary determines that no wildfire protection resources or

personnel within the United States are reasonably available to provide wildfire protection.

42 USC 1856a note.

SEC. 5. TERMINATION DATE.

The authority to enter into agreements under section 3(a), to furnish or accept emergency wildfire protection resources under section 3(b), or to incur obligations for reimbursement under section 3(c), shall terminate on December 31, 1988.

Approved September 9, 1988.

LEGISLATIVE HISTORY—S. 2641:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 8, considered and passed Senate and House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Sept. 9, Presidential statement.

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102 STAT. 1640 Public Law 100-433
100th Congress

An Act

Sept. 16, 1988
[H.R. 1939]

To provide for continuing interpretation of the Constitution in appropriate units of the National Park System by the Secretary of the Interior, and to establish a National center for the United States Constitution within the Independence National Historical Park in Philadelphia, Pennsylvania.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Constitution Heritage Act of 1988.
Conservation.
Historic preservation.
16 USC 407aa note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Constitution Heritage Act of 1988".

16 USC 407aa.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that:

(1) 1987 was the bicentennial of the signing of the United States Constitution;

(2) commemoration of the Constitution's bicentennial included various events conducted by the Federal Commission on the Bicentennial of the United States Constitution, and State and local bicentennial commissions;

(3) bicentennial activities included important educational and instructional programs to heighten public awareness of the Constitution and the democratic process;

(4) educational programs for the Constitution should continue after the bicentennial to document its profound impact on the political, economic and social development of this Nation, and in order to recognize those Americans instrumental in the history of the Constitution; and

(5) units of the National Park System preserve and interpret key historic sites that document the history of the origins, subsequent development, and effects of the United States Constitution on this Nation.

(b) PURPOSES.—It is therefore the policy of the Congress to provide each of the following:

Education.

(1) the necessary resources to develop a national resource center to undertake, on an ongoing basis, educational programs on the Constitution;

(2) exhibits of, and an archives for, programs on or related to the recent bicentennial of the United States Constitution; and

(3) interpretation of the United States Constitution at those units of the National Park System particularly relevant to its history.

Public Law 100-336
100th Congress

102 STAT. 617

An Act

To authorize the Secretary of the Interior to provide assistance to Wildlife Prairie Park, in the State of Illinois, and for other purposes.

June 17, 1988
[H.R. 1100]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, The Secretary of the Interior (hereinafter referred to as the "Secretary") in recognition of the efforts to create Wildlife Prairie Park, is authorized and directed to prepare and make available within two years after the date of enactment of this Act to the Forest Park Foundation for publication and distribution, an interpretive handbook describing that area of approximately one thousand eight hundred acres near Peoria, Illinois, owned by the Forest Park Foundation and designated as the Wildlife Prairie Park. The handbook shall describe the purposes of the Wildlife Prairie Park, the historical, cultural, and ecological values, the methods of site acquisition and development, the management goals and the facilities that exist for public use.

Conservation.
National parks, monuments, etc.

SEC. 2. (a) The Secretary shall, in consultation with interested conservation, professional, and park management organizations and individuals, prepare and submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report of criteria for the elements of national significance and other factors necessary for a proposed area to be considered appropriate for inclusion as an affiliated area of the National Park System including an analysis of applicability to Wildlife Prairie Park. In addition the report shall address the responsibilities to be required of the operators of an affiliated area and the responsibilities of the National Park Service to any such designated area.

Reports.
16 USC 1a-5 note.

(b) The report shall be submitted not later than two years from the date of enactment of this Act and shall provide recommendations by the Secretary of the Interior including but not limited to how criteria for national significance and other factors should be made applicable to future proposed affiliated areas, when such areas are considered by the Secretary. The Secretary shall also recommend any criteria or procedures for such considerations by the Congress including recommendations for legislative action.

SEC. 3. There are authorized for appropriation such sums as may be necessary to carry out the purposes of this Act.

Appropriation authorization.

Approved June 17, 1988.

LEGISLATIVE HISTORY—H.R. 1100:

HOUSE REPORTS: No. 100-186 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-374 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): June 29, considered and passed House.
Vol. 134 (1988): June 6, considered and passed Senate.

102 STAT. 654 Public Law 100-348
100th Congress

An Act

June 27, 1988
[H.R. 1044]

To establish the San Francisco Maritime National Historical Park in the State of California, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

San Francisco Maritime National Historical Park Act of 1988.
Conservation.
National Parks, monuments, etc.
16 USC 410nn note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "San Francisco Maritime National Historical Park Act of 1988".

SEC. 2. ESTABLISHMENT.

Public information.
16 USC 410nn.
Real property.

(a) IN GENERAL.—In order to preserve and interpret the history and achievements of seafaring Americans and of the Nation's maritime heritage, especially on the Pacific coast, there is hereby established the San Francisco Maritime National Historical Park (hereinafter in this Act referred to as the "park").

(b) AREA INCLUDED.—The park shall consist of the lands and interests therein within the area generally depicted on the map entitled "Boundary Map, San Francisco Maritime National Historical Park", numbered 641/80,053 and dated April 7, 1987. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior and in the office of the Superintendent of the park. If the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") determines, upon completion of the General Management Plan for the park, that the inclusion of the property at Jefferson and Hyde Streets, San Francisco, known as the Haslett Warehouse, would promote the purposes of the park, the Secretary may adjust the boundaries of the park to include that property after notification to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The Secretary may make other minor revisions of the boundary of the park in accordance with section 7(c) of the Land and Water Conservation Fund Act of 1965.

(c) GOLDEN GATE NATIONAL RECREATION AREA.—The Secretary shall revise the boundaries of the Golden Gate National Recreation Area to exclude from the National Recreation Area the area within the park (as depicted on the boundary map referred to in subsection (b)). The Secretary shall transfer to the jurisdiction of the park all real and personal property of the United States administered by the Secretary as part of the National Recreation Area located within the boundaries of the park (including the museum building), together with all vessels, marine collections, libraries, historic documents, equipment and other marine artifacts which are administered by the Secretary as part of the National Recreation Area and which relate to maritime history.

Real property.
Gifts and property.
Public buildings and grounds.

(d) MUSEUM BUILDING.—The building housing and displaying the marine collections, libraries, historic documents, equipment, and marine artifacts shall be named the "Sala Burton Building" and an appropriate plaque with this designation shall be prominently displayed as part of the structure.

102 STAT. 655

16 USC 410nn-1.

SEC. 3. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the park in accordance with this Act and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467), and the National Historic Preservation Act (16 U.S.C. 470-470t). The Secretary shall manage the park in such manner as will preserve and

perpetuate knowledge and understanding of American maritime history and to provide for public understanding and enjoyment of maritime history.

(b) DONATIONS.—The Secretary may accept and retain donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities which he deems consistent with the purposes of this Act. Gifts and property.

(c) LEASING.—The Secretary may lease any real or personal property, including vessels and heavy marine equipment such as floating drydocks, which is administered as part of the park. The net receipts from any such lease shall be credited in accordance with subsection 4(f) of the Act of October 27, 1972 (86 Stat. 1299). Real property. Gifts and property.

(d) FEES.—Notwithstanding any other provision of law, the Secretary may impose entrance fees for admission to the ships in such amounts as he deems appropriate and may impose fees for the use by groups or organizations of the ships. All receipts from such fees shall be credited in accordance with subsection 4(f) of the Act of October 27, 1972 (86 Stat. 1299).

(e) GENERAL MANAGEMENT PLAN.—Within 2 years after establishment of the park, the Secretary shall prepare and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a general management plan for the park. The plan shall include, but not be limited to:

(1) a description of the resources of the park including, but not limited to, maritime and associated artifacts, documents, the following historic vessels: the sailing ship Balclutha; the steam schooner Wapama; the steamship SS Jeremiah O'Brien; the ferry Eureka; the schooner C.A. Thayer; the tug Ellpleton Hall; the tug Hercules; and the scow schooner Alma, and other real and personal property comprising the park collections such as written and illustrative material, objects, wrecks, small watercraft, and vessels; Real property. Gifts and property.

(2) plans for the preservation of each historic vessel, including docking facilities, maintenance and ship repair facilities, and estimates for the costs thereof; a determination of the need for permanent docking facilities in a location best suited to the preservation of the historic vessels and for visitor access to the historic vessels; methods of accommodating visitors while protecting the historic vessels; and methods for providing for the proper care, exhibition, and storage of the park collections;

(3) plans for the location, preliminary design, and estimated cost of public facilities to be developed for the park, including a museum building, visitor parking, and public transit access; and Public buildings and grounds.

102 STAT. 656

(4) Plans for the interpretation of the historic vessels and park collections.

SEC. 4. ACQUISITION OF PROPERTY. 16 USC 410nn-2.

(a) GENERAL AUTHORITY.—The Secretary may acquire land and interests in land within the boundaries of the park by donation, purchase with donated or appropriated funds, or exchange.

(b) TRANSFERS FROM OTHER AGENCIES.—The Secretary of Commerce may transfer the Liberty Ship SS Jeremiah O'Brien to the Secretary for inclusion in the historic fleet of the park. Any other Federal property located within the boundaries of the park which is under the administrative jurisdiction of another department or agency of the United States may, with the concurrence of the head of the administering department or agency, be transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of the park.

(c) STATE AND LOCAL LANDS.—Lands, and interests in lands, within the boundaries of the park which are owned by the State of California or any political subdivision thereof, may be acquired only by donation. Notwithstanding any other provision of law, the Secretary is authorized to enter into an agreement with the State of California or any political subdivision thereof under which the Secretary may improve and may use appropriated funds for the improvement of Contracts.

berthing facilities if the State or any political subdivision thereof makes available to the Secretary, in accordance with terms and conditions acceptable to the Secretary, lands and interests in land for the purpose of berthing the ships and providing visitor access to the historic ships.

(d)(1) HISTORIC VESSELS AND OTHER PROPERTY.—In furtherance of the administration of the park, the Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange such property as may be appropriate to carry out the purposes of this Act, including vessels, heavy marine equipment, and drydock facilities. The Secretary shall notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate in writing not less than 90 days before acquisition of any large historic vessel. Such notification shall indicate the estimated cost of preservation, restoration if appropriate, and maintenance of the vessel concerned.

(2) ACQUISITION LIMITATION.—The Secretary shall not acquire any historic vessel pursuant to this subsection until the Secretary has notified the Committees in writing that sufficient funds have been made available to preserve and maintain those vessels listed in paragraph 3(e)(1) of this Act.

16 USC 410nn-3.

SEC. 5. ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Advisory Commission of the San Francisco Maritime National Historical Park (hereinafter in this Act referred to as the "Commission"). The Commission shall be composed of 12 members appointed by the Secretary as follows:

(1) 3 members appointed for terms of 4 years from recommendations submitted by the National Maritime Museum Association.

(2) 2 members appointed for terms of 4 years from recommendations submitted by the Governor of the State of California, at least one of whom shall have professional expertise in maritime historic preservation.

102 STAT. 657

(3) 4 members appointed for terms of 5 years from recommendations submitted by the Mayor of San Francisco with special consideration given to individuals with knowledge of museum and/or maritime issues and who represent the local fishing industry, recreational users, the business community, and neighborhood groups.

(4) 1 member appointed for a term of 5 years from recommendations from the Secretary of Commerce, who shall have professional expertise in the maritime industry.

(5) 2 members appointed for terms of 5 years, who shall have professional expertise in maritime history or historic preservation.

Any member of the Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) COMPENSATION.—Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(c) OFFICERS.—The Chair and other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

(d) MEETINGS.—The Commission shall meet at the call of the Chair or a majority of its members, but not less than twice annually. Seven members of the Commission shall constitute a quorum.

Consistent with the public meeting requirements of the Federal Advisory Committee Act, the Commission shall, from time to time, meet with persons concerned with maritime preservation.

(e) BYLAWS AND CHARTER.—The Commission may make such bylaws, rules, and regulations as it considers necessary to carry out its functions under this Act. The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to this Commission.

(f) FUNCTIONS.—The Commission shall advise the Secretary on the management and development of the park. The Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Commission on matters relating to the management and development of the park.

(g) TERMINATION.—The Commission shall cease to exist 10 years after the date on which the first meeting of the Commission is held.

SEC. 6. CONFORMING AMENDMENT.

Section 4(f) of the Act of October 27, 1972 (16 U.S.C. 460bb–3(f)), is amended by striking out "National Maritime Museum" and inserting "San Francisco Maritime National Historical Park".

102 STAT. 658

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

16 USC 410nn-4.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, but not to exceed $200,000 for planning.

Approved June 27, 1988.

LEGISLATIVE HISTORY—H.R. 1044:

HOUSE REPORTS: No. 100-73 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-373 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): May 4, considered and passed House.
Vol. 134 (1988): June 6, considered and passed Senate, amended.
June 14, House concurred in Senate amendments.

Public Law 100-355
100th Congress

102 STAT. 667

An Act

To increase the amount authorized to be appropriated with respect to the Sewall-Belmont House National Historic Site.

June 28, 1988
[H.R. 2203]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.
National parks, monuments, etc.

SECTION 1. AMENDMENTS.

Title II of Public Law 93-486 (88 Stat. 1463) is amended as follows:

(1) In section 202 strike "101 of this Act" and insert "201 of this title".

(2) In section 204 strike "Act" and insert "title".

(3) Amend section 204 of Public Law 93-486 (88 Stat. 1463) authorizing the Sewall-Belmont House National Historic Site by striking "$500,000" and inserting "$2,000,000".

(4) After section 204 insert:

"SEC. 205. (a) In order to provide a planning framework for the management, preservation, and interpretation of the Sewall-Belmont House National Historic Site, the Secretary of the Interior shall develop a Statement for Management, a Statement for Interpretation, a Scope of Collections Statements, and a Historic Structures Report. Within one year of enactment of this section the

Reports.

(2) The appropriate Federal agencies may consider the transfer of any lands and waters to the Secretary under paragraph (c)(1) as compensation to satisfy, in whole or in part, obligations resulting from water-dependent activities by the Port of Grays Harbor under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344): *Provided,* That there are no practicable alternatives to such water-dependent activities which would have less adverse impact on the aquatic ecosystem: *Provided further,* That appropriate and practicable steps have been taken which will minimize, rectify, and reduce adverse impacts to the aquatic ecosystem from those water-dependent activities which can not be avoided.

(3) The Secretary is authorized to acquire up to sixty-eight acres of lands and waters owned by the city of Hoquiam within the boundaries of the Refuge, and to compensate the lessees on such lands and waters for improvements and relocation costs.

SEC. 5. ADMINISTRATION.

Real property. Water.

(a) GENERAL ADMINISTRATIVE AUTHORITY.—The Secretary shall administer all lands, waters, and interests therein, acquired under section 4 in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

Recreation. Education.

(b) OTHER AUTHORITY.—Consistent with the provisions of section 5(a) of this Act, the Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of fish, wildlife, and natural resources, the development of outdoor recreation opportunities, and interpretative education as he considers appropriate to carry out the purposes of the refuge.

102 STAT. 1043

(c) MANAGEMENT PLAN.—Within eighteen months after the effective date of this Act, the Secretary shall prepare a management plan for the development and operation of the refuge which shall include—

Education. Research and development.

(1) the construction of a visitor center suitable for year-round use with special emphasis in interpretative education and research;

(2) viewpoints, boardwalks, and access;

(3) parking and other necessary facilities; and

(4) a comprehensive plan setting forth refuge management priorities and strategies.

The Secretary shall provide opportunity for public participation in developing the management plan.

SEC. 6. AUTHORIZATION OF APPROPRIATION.

There are authorized to be appropriated to the Department of the Interior—

(1) such sums as may be necessary for the acquisition of the lands and waters referred to in section 4(c)(1).

(2) not to exceed $2,500,000 to carry out other provisions of this Act.

Gifts and property.

SEC. 7. REFUGE DEVELOPMENT FUND.

The Director of the United States Fish and Wildlife Service shall, upon enactment of this Act, promptly request that the National Fish and Wildlife Foundation created by Public Law 98-244 take those measures that the Foundation deems appropriate to encourage, accept, and administer private gifts of property to further the purposes of this Act. The Secretary shall, in preparing the management plan required by section 5(c), give special consideration to means by which the participation and contributions of local public and private entities in developing and implementing such plan can be encouraged.

102 STAT. 1642 which the Secretary may provide technical assistance in the preservation and interpretation of such sites.

Contracts.

(e) RESEARCH AND EDUCATION.—The Secretary shall contract with the National Constitution Center and other qualified institutions of higher learning for research and other activities including the distribution of interpretive and educational materials as appropriate in order to carry out the provisions of this Act.

(f) Nothing in this section may be construed to alter or waive the requirement that the Secretary maintain the historic integrity of units of the National Park System, including compliance with section 106 of the Historic Preservation Act (90 Stat. 1320) as amended.

16 USC 407ee.

SEC. 6. FUNDING.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Approved September 16, 1988.

LEGISLATIVE HISTORY—H.R. 1939:

HOUSE REPORTS: No. 100-107 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-450 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): May 27, considered and passed House.
Vol. 134 (1988): Aug. 9, considered and passed Senate, amended.
Sept. 8, House concurred in Senate amendments.

102 STAT. 1763

Public Law 100-442
100th Congress

An Act

Sept. 22, 1988
[S. 1360]

To amend the Indian Financing Act of 1974, and for other purposes.

Small business.
Securities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

LIMITATIONS ON AMOUNT OF LOANS TO INDIVIDUAL INDIANS OR ECONOMIC ENTERPRISES

SECTION 1. Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended by striking out "$350,000" and inserting in lieu thereof "$500,000".

ASSIGNMENT OF LOANS

SEC. 2. Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended to read as follows:

"SEC. 205. Any loan guaranteed under this title, including the security given for such loan, may be sold or assigned by the lender to any person.".

AGGREGATE LOANS LIMITATION

SEC. 3. Section 217 of the Indian Financing Act of 1974 (25 U.S.C. 1497) is amended by striking out "$200,000,000" in subsection (b) and inserting in lieu thereof "$500,000,000".

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. (a) The last sentence of subsection (e) of section 217 of the Indian Financing Act of 1974 (25 U.S.C. 1497(e)) is amended to read as follows: "All collections and all moneys appropriated pursuant to the authority of this subsection shall remain available until expended.".

same force and effect as if included in this Act, except that correction of clerical and typographical errors in such map and legal description may be made.

102 STAT. 2607

SEC. 4. ADMINISTRATION.

Subject to valid existing rights, the lands designated as wilderness pursuant to this Act shall be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary.

16 USC 431 note.

SEC. 5. ADDITION TO CONGAREE SWAMP NATIONAL MONUMENT.

The first section of the Act approved October 18, 1976 (90 Stat. 2517), is amended by—

(1) inserting "(a)" after "That";

(2) striking all after "Federal Register" and inserting in lieu thereof a period; and

(3) adding at the end thereof the following:

Public information.

"(b) In addition to the lands described in subsection (a), the monument shall consist of the additional lands within the boundary as generally depicted on the map entitled 'Citizens Boundary Proposal for Congaree Swamp National Monument', numbered 178-80,009A, dated July 1988, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The map may be revised as provided in subsection (a). The total acreage of the monument including lands described in subsection (a) and this subsection shall not exceed 22,200 acres.".

16 USC 431 note.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) LAND ACQUISITION FUNDS.—Section 5(a) of the Act approved October 18, 1976 (90 Stat. 2518), is amended by adding at the end thereof the following: "The Secretary may expend such additional sums as are necessary from the Land and Water Conservation Fund for acquisition of lands described in subsection (b) of the first section.".

(b) DEVELOPMENT FUNDS.—Section 5 of the Act approved October 18, 1976 (90 Stat. 2518), is amended by adding at the end thereof the following:

"(c) Notwithstanding subsection (a), there are hereby authorized to be appropriated $3,000,000 for construction and development within the monument.".

30 USC 191a.

SEC. 7. LATE PAYMENT CHARGES UNDER FEDERAL MINERAL LEASES.

(a) DISTRIBUTION OF LATE PAYMENT CHARGES.—Any interest or other charges paid to the United States by reason of the late payment of any royalty, rent, bonus, or other amount due to the United States under any lease issued by the United States for the extraction of oil, gas, coal, or any other mineral, or for geothermal steam, shall be deposited in the same account and distributed to the same recipients, in the same manner, as such royalty, rent, bonus, or other amount.

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to any interest, or other charge referred to in subsection (a), which is paid to the United States on or after July 1, 1988.

(c) PROHIBITION AGAINST RECOUPMENT.—Any interest, or other charge referred to in subsection (a), which was paid to the United States before July 1, 1988, and distributed to any State or other recipient is hereby deemed to be authorized and approved as of the date of payment or distribution, and no part of any such payment or distribution shall be recouped from the State or other recipient. This subsection shall not apply to interest or other charges paid in

102 STAT. 2608

SEC. 3. ESTABLISHMENT OF THE CENTER. 16 USC 407bb.

(a) ESTABLISHMENT BY SECRETARY OF THE INTERIOR.—The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall establish The National Constitution Center (hereafter in this Act referred to as the "Center") within or in close proximity to the Independence National Historical Park. The Center shall disseminate information about the United States Constitution on a nonpartisan basis in order to increase the awareness and understanding of the Constitution among the American people. Public information.

102 STAT. 1641

(b) FUNCTIONS OF THE CENTER.—The functions of the Center shall include—

(1) serving as a center of exhibits and related materials on the history and contemporary significance of the Constitution;

(2) directing a national program of public education on the Constitution; issuing traveling exhibits, commissioning radio and television programs, furnishing materials for the schools, and providing other education services; Education.

(3) functioning as an intellectual center, drawing both academics and practitioners to debate and refine constitutional issues and, at the same time, providing intellectual support for the Center's exhibits and public education program; and

(4) creating archives for programs on the bicentennial of the United States Constitution.

SEC. 4. ACQUISITION OF SITE FOR AND OPERATION OF THE CENTER. 16 USC 407cc.

(a) PROVIDING A SITE.—The Secretary through the General Services Administration, is authorized to provide, upon adequate reimbursement, a site, including necessary structures, for the Center by—

(1) using an existing structure or modifying an existing structure for use; or

(2) constructing a new structure to house the Center. The Secretary may acquire such land as is necessary to provide a site for the Center.

(b) PROVISION OF FUNDS TO THE CENTER.—The Secretary is authorized to make grants to, and enter into cooperative agreements, contracts or leases with the National Constitution Center, Philadelphia, Pennsylvania, which shall operate the Center as provided in this Act in order to carry out the purposes of this Act. Funds authorized to be appropriated under this Act may be made available to the National Constitution Center only to the extent that they are matched by such entity with funds from nonfederal sources. Grants. Contracts.

SEC. 5. DIRECTIVES TO SECRETARY. 16 USC 407dd.

(a) INDEPENDENCE NATIONAL HISTORICAL PARK AND OTHER UNITS.—The Secretary shall interpret the origins, subsequent development, and effects of the United States Constitution on this country at Independence National Historical Park and at such other units of the National Park System as are closely associated with the Constitution. The Secretary shall select not less than 12 units of the National Park System for such interpretation, including Independence National Historical Park.

(b) MEMORIAL.—The Secretary is authorized to establish and maintain at Independence National Historical Park an appropriate memorial to the United States Constitution as a key document in our Nation's history.

(c) PUBLIC MATERIALS.—In coordination with the National Constitution Center, the Secretary shall develop and make available to the public interpretive and educational materials related to sites within the National Park System as referred to in subsection (a).

(d) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the owners or administrators of historic sites closely associated with the Constitution, pursuant to

(b) Section 217 of the Indian Financing Act of 1974 is amended by adding at the end thereof the following new subsection:

"(f) If the Secretary determines that the amount in the fund is not sufficient to maintain an adequate level of reserves necessary to meet the responsibilities of the fund in connection with losses on loans or surety bonds guaranteed or insured under this title, the Secretary shall promptly submit a report notifying Congress of the deficiencies in the fund.". Reports.

(c) Any new credit authority (as defined in section 3 of the Congressional Budget and Impoundment Control Act of 1974) which is provided by amendments made by this Act shall be effective only to such extent and in such amounts as may be approved in advance in appropriation Acts. 25 USC 1497 note.

SUPPLEMENTAL SURETY BOND GUARANTEE

SEC. 5. (a) The Indian Financing Act of 1974 is amended by redesignating section 218 as section 219 and inserting the following new section 218: 25 USC 1498.

"SEC. 218. (a) The Secretary is authorized to provide a supplemental surety bond guarantee, not to exceed 20 percent of any loss, for any Indian individual or economic enterprise eligible for a surety guarantee under section 411 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661, 694b), so that the aggregate of the two guarantees is 100 percent. 25 USC 1497a.

"(b) The Secretary may provide a supplemental guarantee under this section only if the Secretary determines that—

"(1) the Indian individual or economic enterprise has secured or will likely secure a surety bond guarantee under section 411 of the Small Business Investment Act of 1958, as amended;

"(2) the supplemental guarantee is necessary for the Indian individual or economic enterprise to secure a surety bond;

"(3) no more than 25 percent of the surety's business is comprised of bonds guaranteed pursuant to this section; and

"(4) the surety will provide appropriate technical assistance and advice to, and monitor the performance of, the Indian individual or economic enterprise for the prevention or mitigation of a loss.

"(c) The rules and regulations promulgated by the Secretary to carry out this section shall include the setting of reasonable fees to be paid by the Indian individual or economic enterprise and reasonable premium charges to be paid by sureties. In setting fees and charges, the Secretary may take into consideration the cost to the surety of providing the services required by paragraph (4) of subsection (b). The receipts from the fees and charges shall be deposited in the Fund established by section 217(a) of this Act.". Regulations.

(b) Section 3 of the Indian Financing Act of 1974 is amended by adding the following new paragraphs (h) and (i) at the end thereof: 25 USC 1452.

"(h) 'Surety' has the same meaning as in section 410 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661, 694a).

"(i) 'Surety Bond' means a bid bond, payment bond, or performance bond as those terms are defined in section 410 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661, 694a).".

(c) Section 216 of the Indian Financing Act of 1974 is amended by: 25 USC 1496.

(1) striking the phrase "of loans" in the first sentence and inserting, in lieu thereof, the phrase "of loans and surety bonds";

(2) striking the phrase "a loan" in paragraph (b) and inserting, in lieu thereof, the phrase "a loan or surety bond"; and

(3) striking the phrase "any loan" in paragraph (c) and inserting, in lieu thereof, the phrase "any loan or surety bond".

(d) Section 217 of the Indian Financing Act of 1974 is amended by striking the word "loans" each time it appears and inserting, in lieu thereof, the phrase "loans or surety bonds". 25 USC 1497.

SEC. 6. The Indian Financing Act of 1974 is amended by adding the following new section at the end of title II:

25 USC 1499.

"SEC. 220. (a) The Secretary may guarantee not to exceed 90 percent of the unpaid principal and interest due on an issue of bonds, debentures, or similar obligations issued by an organization satisfactory to the Secretary. Such an issue shall be deemed a loan for purposes of sections 202, 203, 204, 205, 206, 209, 210, 211, 213, 214, 215, 216, and 217 of this Act.

102 STAT. 1765

"(b) The method by which an issue of bonds guaranteed under this section may be sold shall be subject to approval by the Secretary.".

SEC. 7. The Indian Financing Act of 1974 is amended by adding a new section 504 as follows:

Contracts.
25 USC 1544.

"SEC. 504. Notwithstanding any other provision of law, a contractor of a Federal agency under any Act of Congress may be allowed an additional amount of compensation equal to 5 percent of the amount paid, or to be paid, to a subcontractor or supplier, in carrying out the contract if such subcontractor or supplier is an Indian organization or Indian-owned economic enterprise as defined in this Act.".

Approved September 22, 1988.

LEGISLATIVE HISTORY—S. 1360:

HOUSE REPORTS: No. 100-838 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-149 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Nov. 5, considered and passed Senate.
Nov. 17, passage vitiated and reconsidered and passed Senate.
Vol. 134 (1988): Aug. 8, considered and passed House, amended.
Sept. 9, Senate concurred in House amendments.

102 STAT. 2303

Public Law 100-475
100th Congress

An Act

Oct. 6, 1988
[H.R. 2952]

To increase the amount authorized to be appropriated for acquisition at the Women's Rights National Historical Park.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS FOR ACQUISITION.

Subsection (i) of section 1601 of the Act entitled "An Act to provide, with respect to the national park system: for the establishment of new units; for adjustments in boundaries; for increases in appropriation authorizations for land acquisition and development; and for other purposes" (16 U.S.C. 410ll(i)) is amended by striking out "$490,000" and inserting in lieu thereof "$700,000".

Approved October 6, 1988.

LEGISLATIVE HISTORY—H.R. 2952:

HOUSE REPORTS: No. 100-395 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-532 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 27, considered and passed House.
Vol. 134 (1988): Sept. 28, considered and passed Senate.

Public Law 100-476
100th Congress

102 STAT. 2304

An Act

To authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974.

Oct. 6, 1988
[H.R. 4419]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended by adding at the end the following new subsection:

"(g)(1) Except as otherwise specifically provided with respect to the payment of claims under section 11 of this Act, there are authorized to be appropriated to carry out the purposes of this Act—

"(A) $17,039,000 for the fiscal year ending September 30, 1989;

"(B) $17,737,000 for the fiscal year ending September 30, 1990; and

"(C) $18,464,000 for the fiscal year ending September 30, 1991.

"(2) Of the amounts referred to in paragraph (1), not more than $4,150,000 is authorized to be appropriated for each fiscal year for National Emergency Training Center site administration.".

SEC. 2. (a) The Administrator of the United States Fire Administration shall conduct a study concerning the quality, availability, and degree of use of fire prevention systems for the hearing impaired population. In particular such study shall—

Safety.
Deaf persons.

(1) evaluate the quality of equipment for the hearing impaired;

(2) assess the extent, adequacy, and status of research on ways to improve the quality of such equipment;

(3) evaluate the availability of such equipment and the extent to which it is being used in houses, apartments, hotels, and public buildings; and

(4) determine the degree to which such equipment is required by States and model codes.

(b) The Administrator shall, not later than January 1, 1989, complete such study and transmit to the Congress a report on the results of the study, together with recommendations on how fire alarm and detection systems for the hearing impaired can be improved and how the use of such systems can be encouraged, including the appropriate Federal role in doing so.

Reports.

Approved October 6, 1988.

LEGISLATIVE HISTORY—H.R. 4419:

HOUSE REPORTS: No. 100-589 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-435 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 24, considered and passed House.
Aug. 10, considered and passed Senate, amended.
Sept. 26, House concurred in Senate amendment.

Public Law 100-479
100th Congress

102 STAT. 2324

An Act

To create a national park at Natchez, Mississippi.

Oct. 7, 1988
[H.R. 4457]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Historic preservation.
Conservation.
16 USC 410oo.

SECTION 1. PURPOSES.

The purposes of this Act are to—

(1) preserve and interpret the history of Natchez, Mississippi, as a significant city in the history of the American South;

(2) preserve and interpret the sites and structures associated with all the peoples of Natchez and its surrounding area from earliest inhabitants to the modern era, and including blacks both slave and free;

(3) preserve and interpret the region's social, political, and economic development, with particular emphasis on the pre- and post-Civil War eras; and

(4) preserve and interpret the region's commercial and agricultural history, especially in relation to the Mississippi River and cotton.

16 USC 410oo-1.

SEC. 2. ESTABLISHMENT OF NATCHEZ NATIONAL HISTORICAL PARK.

(a) IN GENERAL.—In order to provide for the benefit, inspiration, and education of the American people, there is hereby established the Natchez National Historical Park (hereinafter in this Act referred to as the "park") in the State of Mississippi.

(b) AREA INCLUDED.—The park shall consist of the historic districts established under this Act and the following properties:

(1) The lands and structures known as Melrose, together with all personal property located on such lands.

(2) The lands and improvements thereon known as, or associated with, Fort Rosalie.

The property referred to in paragraph (2) shall be included within the park only if the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") determines that the historic resources of Fort Rosalie are of sufficient national significance and integrity to warrant inclusion in the National Park System. The Secretary shall make such determination after receiving from the Governor of the State of Mississippi and the mayor of the city of Natchez, in consultation with the State Historic Preservation Officer, a recommendation based on scholarly research as to the national significance and integrity of such historic resources.

Public information. District of Columbia

(c) BOUNDARIES; MAP.—The Secretary shall prepare a map of the lands included within the park. Such map shall be on file and available for public inspection in the offices of the National Park Service at the park and at the Department of the Interior in the District of Columbia. The Secretary may from time to time make minor revisions in the boundary of the park in accordance with section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 and following).

16 USC 410oo-2.

SEC. 3. ACQUISITION OF PROPERTY.

Except as otherwise provided in this section, the Secretary may acquire, by donation, purchase with donated or appropriated funds, or exchange, land or interests in land, together with structures and other improvements thereon and personal property, which is included within the park. In addition the Secretary may acquire by any such means such personal property associated with the park as he deems appropriate for interpretation of the park and such additional lands and properties as may be necessary for purposes of an administrative headquarters and administrative site. Any land, interests in land, structures, improvements, or personal property owned by the State of Mississippi or any political subdivision thereof, may be acquired only by donation. The Secretary may not acquire fee title to any property other than the property he deems necessary for an administrative site and headquarters and the property referred to in paragraph (1) or (2) of section 2, and the Secretary may not acquire the property referred to in paragraph (1) of section 2 unless at least 25 per centum of the fair market value of such property (as determined by the Secretary) is donated to the United States in connection with such acquisition.

16 USC 410oo-3.

SEC. 4. ADMINISTRATION OF PARK.

(a) IN GENERAL.—The Secretary shall administer the park in accordance with this Act and with the provisions of law generally

applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467). Properties acquired under this Act for purposes of inclusion in the park shall be available for visitor inspection and enjoyment as promptly as practicable after the date of acquisition notwithstanding the absence of a park management plan.

Public information.

(b) DONATIONS.—Notwithstanding any other provision of law, the Secretary may accept and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities which he deems consistent with the purposes of this Act.

(c) HISTORIC DISTRICTS.—

(1) STUDY OF HISTORIC PROPERTIES.—The Secretary shall prepare and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a study of the properties in the city of Natchez and its immediate environs that preserve and interpret the history contained in the purposes of this Act. Such report shall consider which properties best exemplify such purposes and appropriate means for providing technical assistance to, and interpretation of, such properties. The study and report shall include consideration of Natchez-Under-the-Hill and the Briars.

Reports.

(2) ESTABLISHMENT OF DISTRICTS.—Following completion of the study under paragraph (1), but not later than one year after the date of enactment of this Act, the Secretary shall establish historic districts in the city of Natchez and its immediate environs for the preservation and interpretation of the resources that contribute to the understanding of the purposes of this Act.

102 STAT. 2326

(3) COOPERATIVE AGREEMENTS WITH OWNERS.—In furtherance of the purposes of this Act, and after consultation with the Advisory Commission established by this Act, the Secretary is authorized to enter into cooperative agreements with the owners of properties of historical or cultural significance (as determined by the Secretary) within any historic district established under this subsection. Such agreements shall permit the Secretary to mark, interpret, improve, restore, and provide technical assistance with respect to the preservation and interpretation of such properties. Such agreements shall contain, but need not be limited to, provisions that the Secretary shall have the right of access at reasonable times to public portions of any property covered by such agreement for purposes of conducting visitors through such properties and interpreting them to the public, and that no changes or alterations shall be made in the property except by mutual agreement between the Secretary and other parties to the agreement.

(d) GENERAL MANAGEMENT PLAN.—Within three complete fiscal years after the enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a general management plan for the park. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 through 1a-7). Such plan shall identify appropriate facilities for proper interpretation of the site for visitors.

SEC. 5. NATCHEZ TRACE STUDY.

Gifts and property.
16 USC 410oo-4.

The Secretary shall prepare, in consultation with the city of Natchez, a study of the feasibility of extending the Natchez Trace within the city of Natchez, including the acceptance of donations of rights-of-way. The Secretary shall transmit the study to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within one year after the date of enactment of this Act.

16 USC 410oo-5.

SEC. 6. ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Natchez National Historical Park Advisory Commission (hereinafter in this Act referred to as the "Advisory Commission"). The Advisory Commission shall be composed of six members appointed by the Secretary. Two of such members shall be appointed from among individuals nominated by the mayor of Natchez and one from among individuals nominated by the Governor of Mississippi. Two of the members shall have expertise in historic preservation and one shall have expertise in architectural history. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. The Advisory Commission shall designate one of its members as Chairperson.

(b) MANAGEMENT AND DEVELOPMENT ISSUES.—The Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission on matters relating to the management and development of the park.

(c) MEETINGS.—The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the park. Advisory Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

Public information.

102 STAT. 2327

(d) EXPENSES.—Members of the Advisory Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

(e) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to this Advisory Commission.

16 USC 410oo-6.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated not to exceed $12,000,000 to carry out this Act.

Approved October 7, 1987.

LEGISLATIVE HISTORY—H.R. 4457:

HOUSE REPORTS: No. 100-793 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-538 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed House.
Sept. 27, considered and passed Senate.

102 STAT. 2429

Public Law 100-486
100th Congress

An Act

Oct. 13, 1988
[S. 1165]

To authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PINELANDS INTERPRETATIVE AND EDUCATIONAL PROGRAM; INTERIOR DEPARTMENT STUDY AND RECOMMENDATIONS.

Section 502 of the National Parks and Recreation Act of 1978 (Public Law 95-625; 16 U.S.C. 471i) is amended by adding at the end the following new subsection:

"(l) PINELANDS INTERPRETATIVE AND EDUCATIONAL PROGRAM; INTERIOR DEPARTMENT STUDY AND RECOMMENDATIONS.—

"(1) STUDY AND RECOMMENDATIONS FOR INTERPRETATIVE AND EDUCATIONAL PROGRAM.—For the purpose of enhancing public understanding, awareness, and appreciation with respect to the natural and cultural resources of the Pine Barrens area of New Jersey, the Secretary shall, within 9 months after the enactment of this subsection, study and recommend appropriate initiatives to provide an educational and interpretative program for the Reserve. The Secretary shall conduct such study in consultation with the planning entity and the appropriate departments and agencies of the State of New Jersey.

"(2) ITEMS INCLUDED.—The study and recommendations required by this subsection shall include, but not be limited to each of the following:

"(A) Interpretative and informational materials, exhibits, films, lectures, and other devices and educational methods.

"(B) A plan to provide for educational and interpretative programs for the Reserve, considering among other things the improvement of existing facilities and interpretative programs in the Reserve, including the possible use of existing facilities such as Whitesbog, Batsto, Double Trouble State Park and Stockton State College.

"(C) The use and enhancement of existing fire towers in the Reserve to serve as observation platforms.

"(D) The appropriate role for departments and agencies of the State of New Jersey and the Federal Government in implementing the program.

"(3) STUDY OF DEVELOPMENT CREDIT BANK AND DEVELOPMENT CREDIT SYSTEM.—The Secretary is authorized and directed to study the State of New Jersey Pinelands Development Credit Bank and Pinelands Development Credit System, and to submit to the Congress within 9 months after enactment of this subsection such recommendations as the Secretary determines appropriate for improvements of the operation of the State Pinelands Development Credit Bank and the overall Pinelands Development Credit Program.

102 STAT. 2430

"(4) STUDY OF MUNICIPAL COUNCIL.—The Secretary shall study the Pinelands Municipal Council, and submit to the Congress within 9 months after enactment of this subsection such recommendations as the Secretary determines appropriate for improvements of the operation of the council.

"(5) CONTRACTS AND AGREEMENTS.—The Secretary may enter into such contracts and agreements with the State of New Jersey and other public and private entities as may be necessary and appropriate to carry out the authorities and responsibilities of the Secretary under this subsection. For purposes of this subsection, there is authorized to be appropriated not more than $500,000 to prepare and complete the study pursuant to paragraph (1) and $3,000,000 to implement the recommendations of such study upon its approval by the Congress, the Federal share of which may not exceed 75 percent of the total cost.".

Appropriation authorization.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 502(k) of the National Parks and Recreation Act of 1978 is amended by inserting "(1)" before the first full sentence thereof, and adding at the end thereof the following new paragraph:

16 USC 471i.

"(2) In addition to other funds authorized pursuant to this subsection, there are hereby authorized to be appropriated not to exceed $14,500,000 for land acquisition, the Federal share of which may not exceed 50 percent of the total cost. Land acquisition pursuant to this subsection shall be carried out in accordance with the requirements of subsection (h) of this section insofar as such requirements are not inconsistent with this paragraph. Such acquisitions shall also be carried out in a manner consistent with the management plan and shall include—

"(A) lands located within the preservation area of the National Reserve which is designated in the management plan;

"(B) lands that are within the areas protected by the management plan and that are threatened by adverse development or have critical ecological values; or

"(C) lands that have limited practical use because of their location in the Reserve and that are held by landowners who both own less than 50 acres in the Reserve and have exhausted existing remedies to secure relief.

Additional funds contributed by the State to the Pinelands Development Bank after enactment of this Act, not to exceed $5,000,000, may be counted as part of the State share of land acquisition funds.".

Approved October 13, 1988.

LEGISLATIVE HISTORY—S. 1165:

HOUSE REPORTS: No. 100-933 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-244 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 11, considered and passed Senate.
Vol. 134 (1988): Sept. 20, considered and passed House, amended.
Sept. 30, Senate concurred in House amendment.

102 STAT. 2563 Public Law 100-515
100th Congress

An Act

Oct. 20, 1988
[S. 2057]

To provide for the establishment of the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.

16 USC 1244 note.

SECTION 1. DESIGNATION OF NEW JERSEY COASTAL HERITAGE TRAIL ROUTE.

Federal Register, publication. Highways.

In order to provide for public appreciation, education, understanding, and enjoyment, through a coordinated interpretive program of certain nationally significant natural and cultural sites associated with the coastal area of the State of New Jersey that are accessible generally by public road, the Secretary of the Interior (hereinafter referred to as the "Secretary"), acting through the Director of the National Park Service, with the concurrence of the agency having jurisdiction over such roads, is authorized to designate, by publication of a map or other description thereof in the Federal Register, a vehicular tour route along existing public roads linking such natural and cultural sites in New Jersey. Such route shall be known as the New Jersey Coastal Heritage Trail Route (hereinafter referred to as the "route").

16 USC 1244 note.

SEC. 2. LOCATION; ADDITIONAL SEGMENTS.

The route shall follow public roads, which are generally located to the east of the Garden State Parkway, linking the New Jersey portion of Gateway National Recreation Area, known generally as the Sandy Hook Unit, with the national historic landmark in Cape May and that area north and west of Cape May in the vicinity of Deepwater, New Jersey. The Secretary may, in the manner set forth in section 1, designate additional segments of the route from time to time as appropriate to link the foregoing sites with other natural and cultural sites when such sites are designated and protected by Federal, State, or local governments, or other public or private entities.

SEC. 3. INVENTORY AND PLAN. 16 USC 1244 note.

(a) PREPARATION.—Within one year after the date of availability of funds, the Secretary shall prepare a comprehensive inventory of sites along the route and general plan which shall include but not be limited to the location and description of each of the following:

(1) Significant fish and wildlife habitat and other natural areas. Fish and fishing. Wildlife.

(2) Unique geographic or geologic features and significant landforms.

(3) Important cultural resources, including historical and archeological resources. Historic preservation.

(4) Migration routes for raptors and other migratory birds, marine mammals, and other wildlife. Birds.

102 STAT. 2564

(b) INTERPRETIVE PROGRAM.—The general plan shall include proposals for a comprehensive interpretive program of the area and it shall identify alternatives for appropriate levels of protection of significant resources.

(c) TRANSMISSION TO CONGRESS.—The Secretary shall transmit the comprehensive inventory and the general plan to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

(d) CONSULTATION; PUBLIC PARTICIPATION.—The inventory and plan shall be prepared in consultation with other Federal agencies, the State of New Jersey, units of local government, and public and private entities. In addition, the Secretary shall ensure that there are ample opportunities for public involvement and participation in the preparation of the inventory and plan.

SEC. 4. PUBLIC APPRECIATION. 16 USC 1244 note.

With respect to sites linked by segments of the route which are administered by other Federal, State, local nonprofit or private entities, the Secretary is authorized, pursuant to cooperative agreements with such entities, to provide technical assistance in the development of interpretive devices and materials and conservation methods regarding the resources enumerated in section 3 in order to contribute to public appreciation, understanding and conservation of the natural and cultural resources of the sites along the route. The Secretary, in cooperation with State and local governments, and other public and private entities, shall prepare and distribute informational material for the public appreciation of sites along the route.

SEC. 5. MARKERS. 16 USC 1244 note.

The route is to be marked with appropriate markers to guide the public. With the concurrence and assistance of the State or local entity having jurisdiction over the roads designated as part of the route, the Secretary may erect thereon signs and other informational devices displaying the New Jersey Coastal Heritage Trail Route marker. The Secretary is authorized to accept the donation of suitable signs and other informational devices for placement at appropriate locations. Gifts and property.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS. 16 USC 1244 note.

There are authorized to be appropriated to the Secretary not more than $250,000 to carry out the purposes of this Act. No funds made available under this Act shall be used for the operation, maintenance, or repair of any road or related structure.

SEC. 7. REVITALIZATION OF OFFICERS ROW, SANDY HOOK, NEW JERSEY. 16 USC 1244 note. Public buildings and grounds.

(a) AGREEMENT WITH STATE.—To further the revitalization, rehabilitation, and utilization of the area known as "Officers Row" located within the Sandy Hook Unit of the Gateway National Recreation Area, the Secretary of the Interior, or his designee, shall enter into an agreement to permit the State of New Jersey to use and occupy the property depicted on the map numbered 646/80,003, entitled "Marine Science Laboratory Land Assignment", dated

102 STAT. 2565

September 1988, for the express purpose of constructing, developing, and operating, without cost to the National Park Service, a marine sciences laboratory to be known as the "James J. Howard Marine Sciences Laboratory". The design of the new facility, the rehabilitation of Building 74, the design and location of landscaping modifications thereto, shall be reviewed by, and subject to the approval of, the Director of the National Park Service or his designee using the standards for rehabilitation and National Park Service guidelines and policies approved by the Secretary of the Interior.

(b) REVERSION.—If the improvements described in subsection (a) are not used as a marine sciences laboratory by the State of New Jersey, all use of the property and the improvements thereon shall revert, without consideration, to the National Park Service.

Approved October 20, 1988.

LEGISLATIVE HISTORY—S. 2057:

HOUSE REPORTS: No. 100-905 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-372 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 8, considered and passed Senate.
Sept. 13, considered and passed House, amended.
Sept. 30, Senate concurred in House amendments with amendments.
Oct. 3, 4, House concurred in Senate amendments.

102 STAT. 2605

Public Law 100-523
100th Congress

An Act

Oct. 24, 1988
[S. 1911]

To amend title 5, United States Code, to allow all forest fire fighting employees to be paid overtime without limitation while serving on forest fire emergencies.

Forest Wildfire Emergency Pay Equity Act of 1988.
5 USC 5547 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Forest Wildfire Emergency Pay Equity Act of 1988".

SEC. 2. Section 5547 of title 5, United States Code, is amended to read as follows:

"§ 5547. Limitation on premium pay

"(a) An employee may be paid premium pay under sections 5542, 5545 (a), (b), and (c), and 5546 (a) and (b) of this title only to the extent that the payment does not cause his aggregate rate of pay for any pay period to exceed the maximum rate for GS-15. The first sentence of this subsection shall not apply to any employee of the Federal Aviation Administration or the Department of Defense who is paid premium pay under section 5546a of this title.

"(b)(1) The provisions of subsection (a) shall not apply to the pay of any forest firefighter for any pay period in which such firefighter is assigned to work on, or in support of, forest wildfire emergencies.

"(2) Notwithstanding the provisions of paragraph (1), no forest firefighter employee may be paid premium pay to the extent that the aggregate rate of pay of such employee for the aggregate of all pay periods in any calendar year exceeds the maximum rate for GS-15 as provided under the General Schedule pursuant to subchapter III of chapter 53 of title 5, United States Code.

"(3) For purposes of this subsection, the term—

"(A) 'forest firefighter' means any employee of the Department of Agriculture or the Department of the Interior who is assigned to work on, or in support of, forest wildfire emergencies; and

"(B) 'in support of' means duties performed during a temporary assignment to work on a wildland fire suppression for

which the salary costs of employees shall be paid from funds provided to the Forest Service, Bureau of Land Management, National Park Service, United States Fish and Wildlife Service or the Bureau of Indian Affairs for fire fighting.".

Approved October 24, 1988.

LEGISLATIVE HISTORY—S. 1911:

SENATE REPORTS: No. 100-546 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 30, considered and passed Senate.
Oct. 6, considered and passed House.

Public Law 100-524
100th Congress

102 STAT. 2606

An Act

To expand the boundaries of the Congaree Swamp National Monument, to designate wilderness therein, and for other purposes.

Oct. 24, 1988
[S. 2018]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Congaree Swamp National Monument Expansion and Wilderness Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congaree Swamp National Monument Expansion and Wilderness Act".

SEC. 2. NATIONAL MONUMENT WILDERNESS.

National Wilderness Preservation System. 16 USC 1132 note.

(a) DESIGNATION OF WILDERNESS.—Certain lands comprising approximately 15,010 acres as generally depicted on a map entitled "Congaree Swamp National Monument Wilderness—Proposed", and dated July 1988, are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System. Such lands shall be known as the Congaree Swamp National Monument Wilderness.

(b) POTENTIAL WILDERNESS ADDITIONS.—Certain lands comprising approximately 6,840 acres as depicted on the map referenced in subsection (a) are hereby designated as potential wilderness additions. Such lands shall be managed by the Secretary of the Interior (hereinafter referred to as the "Secretary") insofar as practicable as wilderness until such time as said lands are designated as wilderness. Any lands designated as potential wilderness additions shall, upon acquisition of any non-Federal interests in land and publication in the Federal Register of a notice by the Secretary that all uses thereon prohibited by the Wilderness Act have ceased, thereby be designated wilderness, shall be part of the Congaree Swamp National Monument Wilderness, and shall be managed in accordance with the Wilderness Act.

SEC. 3. MAP AND LEGAL DESCRIPTION.

Public information.

As soon as practicable after the date of enactment of this Act, the map referenced in section 2 and a legal description of the boundaries of the wilderness and potential wilderness addition designated by this Act shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, in the Office of the Superintendent of the Congaree Swamp National Monument and with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Each such map and legal description shall have the

connection with any royalty, rent, bonus, or other amount determined not to be owing to the United States.

Approved October 24, 1988.

LEGISLATIVE HISTORY—S. 2018:

HOUSE REPORTS: No. 100-977 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-449 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 9, considered and passed Senate.
Sept. 26, considered and passed House, amended.
Oct. 7, Senate concurred in House amendment.

Public Law 100-534
100th Congress

102 STAT. 2699

An Act

To protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, and for other purposes.

Oct. 26, 1988
[H.R. 900]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "West Virginia National Interest River Conservation Act of 1987".

West Virginia National Interest River Conservation Act of 1987. National Park System. 16 USC 460m-15 note.

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.

TITLE I—NEW RIVER GORGE NATIONAL RIVER

Sec. 101. Boundary modification.
Sec. 102. Cooperative agreements with State.
Sec. 103. Improvement of access at Cunard.
Sec. 104. Flow management.
Sec. 105. Visitor facility.

TITLE II—GAULEY RIVER NATIONAL RECREATION AREA

Sec. 201. Establishment.
Sec. 202. Administration.
Sec. 203. Miscellaneous.
Sec. 204. Authorization of appropriations.
Sec. 205. Special conditions.
Sec. 206. Advisory committee.

TITLE III—BLUESTONE NATIONAL SCENIC RIVER

Sec. 301. Designation of Lower Bluestone River.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Coordination among recreational resources.
Sec. 402. Special provisions.
Sec. 403. Public awareness program.
Sec. 404. Consolidated management.
Sec. 405. New spending authority subject to appropriations.

TITLE V—TECHNICAL CHANGE TO WILD AND SCENIC RIVERS ACT

Sec. 501. Acreage limitations.

SEC. 2. FINDINGS AND PURPOSE.

16 USC 460m-15 note.

(a) FINDINGS.—The Congress finds that—

(1) The outstanding natural, scenic, cultural and recreational values of the segment of the New River in West Virginia within the boundaries of the New River Gorge National River have

"(C) the 10.5-mile segment from Oregon State Highway 224 to the June Creek Bridge as a scenic river;

"(D) the 9-mile segment from June Creek Bridge to Tar Creek as a recreational river;

"(E) the 5.5-mile segment from Tar Creek to just south of Indian Henry Campground as a scenic river; and

102 STAT. 2783

"(F) the 14.5-mile segment just south of Indian Henry Campground to Big Cliff as a recreational river.

"( ) CRESCENT CREEK, OREGON.—The 10-mile segment from the southwest quarter of section 11, township 24 south, range 6 east, to the west section line of section 13, township 24 south, range 7 east, as a recreational river; to be administered by the Secretary of Agriculture.

"( ) CROOKED, OREGON.—The 15-mile segment from the National Grassland boundary to Dry Creek; to be administered by the Secretary of the Interior in the following classes:

"(A) The 7-mile segment from the National Grassland boundary to River Mile 8 south of Opal Spring as a recreational river; and

"(B) the 8-mile segment from Bowman Dam to Dry Creek as a recreational river.

"( ) DESCHUTES, OREGON.—Those portions as follows:

"(A) The 40.4-mile segment from Wickiup Dam to northern boundary of Sunriver at the southwest quarter of section 20, township 19 south, range 11 east as a recreational river; to be administered by the Secretary of Agriculture;

"(B) the 11-mile segment from the northern boundary of Sunriver at the southwest quarter of section 20, township 19 south, range 11 east, to Lava Island Camp as a scenic river; to be administered by the Secretary of Agriculture;

"(C) the 3-mile segment from Lava Island Camp to the Bend Urban Growth Boundary at the southwest corner of section 13, township 18 south, range 11 east, as a recreational river; to be administered by the Secretary of Agriculture;

"(D) the 19-mile segment from Oden Falls to the Upper End of Lake Billy Chinook as a scenic river; to be administered by the Secretary of the Interior;

"(E) the 100-mile segment from the Pelton Reregulating Dam to its confluence with the Columbia River as a recreational river; to be administered by the Secretary of the Interior through a cooperative management agreement between the Confederated Tribes of the Warm Springs Reservation, and the State of Oregon as provided in section 10(e) of this Act and section 105 of the Omnibus Oregon Wild and Scenic Rivers Act of 1988.

"( ) DONNER UND BLITZEN, OREGON.—Those segments, including its, major tributaries, as a wild river; to be administered by the Secretary of the Interior as follows:

"(A) The 16.75-mile segment of the Donner und Blitzen from its confluence with the South Fork Blitzen and Little Blitzen;

"(B) the 12.5-mile segment of the Little Blitzen from its headwaters to its confluence with the South Fork Blitzen;

"(C) the 16.5-mile segment of the South Fork Blitzen from its headwaters to its confluence with the South Fork Blitzen;

"(D) the 10-mile segment of Big Indian Creek from its headwaters to its confluence with the South Fork Blitzen;

"(E) the 3.7-mile segment of Little Indian Creek from its headwaters to its confluence with Big Indian Creek; and

"(F) the 13.25-mile segment of Fish Creek from its headwaters to its confluence with the Donner und Blitzen.

"( ) EAGLE CREEK, OREGON.—The 27-mile segment from its headwaters below Eagle Lake to the Wallowa-Whitman National Forest boundary at Skull Creek; to be administered by the Secretary of Agriculture in the following classes:

102 STAT. 2784

been preserved and enhanced by its inclusion in the National Park System.

(2) The establishment of the New River Gorge National River has provided the basis for increased recreation and tourism activities in southern West Virginia due to its nationally recognized status and has greatly contributed to the regional economy.

102 STAT. 2700

(3) Certain boundary modifications to the New River Gorge National River are necessary to further protect the scenic resources within the river's visual corridor and to provide for better management of the national park unit.

(4) Several tributaries of the New River in West Virginia also possess remarkable and outstanding features of national significance. The segment of the Gauley River below Summersville Dam has gained national recognition as a premier whitewater recreation resource. The lower section of the Bluestone River and the lower section of the Meadow River possess remarkable and outstanding natural, scenic, and recreational values due to their predominantly undeveloped condition.

(5) Portions of several of the New River tributaries, including segments of the Gauley River, the Meadow River, and the Bluestone River are suitable for inclusion in the National Park System or the National Wild and Scenic Rivers System.

(6) It is in the national interest to preserve the natural condition of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia and to enhance recreational opportunities available on the free-flowing segments.

(b) PURPOSE.—The purpose of this Act is to provide for the protection and enhancement of the natural, scenic, cultural, and recreational values on certain free-flowing segments of the New, Gauley, Meadow, and Bluestone Rivers in the State of West Virginia for the benefit and enjoyment of present and future generations.

TITLE I—NEW RIVER GORGE NATIONAL RIVER

SEC. 101. BOUNDARY MODIFICATION.

Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m-15) is amended by striking out "NERI-20,002, dated July 1978" and substituting "NERI-80,023, dated January 1987".

SEC. 102. COOPERATIVE AGREEMENTS WITH STATE.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end thereof:

16 USC 460m-26.

"SEC. 1113. COOPERATIVE AGREEMENTS WITH STATE.

Law enforcement and crime.

"In administering the national river, the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for the rendering, on a reimbursable or non-reimbursable basis, of rescue, fire fighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.".

SEC. 103. IMPROVEMENT OF ACCESS AT CUNARD.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end thereof:

16 USC 460m-27.

"SEC. 1114. IMPROVEMENT OF ACCESS AT CUNARD.

Real property. Public health and safety.

"(a) DEVELOPMENT AND IMPROVEMENT.—The Secretary shall expeditiously acquire such lands, and undertake such developments and improvements, as may be necessary to provide for commercial and noncommercial access to the river near Cunard. No restriction shall be imposed on such access based on the time of day, except to the extent required to protect public health and safety.

102 STAT. 2701

"(b) INTERIM MEASURES.—Pending completion of the developments and improvements referred to in subsection (a), the Secretary shall permit the motorized towing of whitewater rafts in the section of the national river between Thurmond and Cunard when the volume of flow in the river is less than three thousand cubic feet per second.".

"(A) The 4-mile segment from its headwaters below Eagle Lake to the Eagle Cap Wilderness boundary at Hummingbird Mountain as a wild river;

"(B) the 15.5-mile segment from the Eagle Cap Wilderness boundary at Hummingbird Mountain to Paddy Creek as a recreational river;

"(C) the 6-mile segment from Paddy Creek to Little Eagle Creek as a scenic river; and

"(D) the 1.5-mile segment from Little Eagle Creek to the Wallowa-Whitman National Forest boundary as a recreational river.

"( ) ELK, OREGON.—The 19-mile segment to be administered by the Secretary of Agriculture in the following classes:

"(A) The 17-mile segment from the confluence of the North and South Forks of the Elk to Anvil Creek as a recreational river; and

"(B) the 2-mile segment of the North Fork Elk from the falls to its confluence with the South Fork as a wild river.

"( ) GRANDE RONDE, OREGON.—The 43.8-mile segment from its confluence with the Wallowa River to the Oregon-Washington State line in the following classes:

"(A) The 1.5-mile segment from its confluence with the Wallowa River to the Umatilla National Forest boundary in section 11, township 3 north, range 40 east, as a recreational river; to be administered by the Secretary of Agriculture;

"(B) the 17.4-mile segment from the Umatilla National Forest boundary in section 11, township 3 north, range 40 east, to the Wallowa-Whitman National Forest boundary approximately one-half mile east of Grossman Creek as a wild river; to be administered by the Secretary of Agriculture;

"(C) the 9-mile segment from the Wallowa-Whitman National Forest boundary approximately one-half mile east of Grossman Creek to Wildcat Creek as a wild river; to be administered by the Secretary of the Interior; and

"(D) the 15.9-mile segment from Wildcat Creek to the Oregon-Washington State line as a recreational river; to be administered by the Secretary of the Interior.

"( ) IMNAHA, OREGON.—Those segments, including the South Fork Imnaha; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 6-mile segment from its confluence with the North and South Forks of the Imnaha River to Indian Crossing as a wild river;

"(B) the 58-mile segment from Indian Crossing to Cow Creek as a recreational river;

"(C) the 4-mile segment from Cow Creek to its mouth as a scenic river; and

"(D) the 9-mile segment of the South Fork Imnaha from its headwaters to its confluence with the Imnaha River as a wild river.

"( ) JOHN DAY, OREGON.—The 147.5-mile segment from Service Creek to Tumwater Falls as a recreational river; to be administered through a cooperative management agreement between the State of Oregon and the Secretary of the Interior as provided in section 10(e) of this Act.

102 STAT. 2785

"( ) JOSEPH CREEK, OREGON.—The 8.6-mile segment from Joseph Creek Ranch, one mile downstream from Cougar Creek, to the Wallowa-Whitman National Forest boundary as a wild river; to be administered by the Secretary of Agriculture.

"( ) LITTLE DESCHUTES, OREGON.—The 12-mile segment from its source in the northwest quarter of section 15, township 26 south, range 6½ east to the north section line of section 12, township 26 south, range 7 east as a recreational river; to be administered by the Secretary of Agriculture.

"( ) LOSTINE, OREGON.—The 16-mile segment from its headwaters to the Wallowa-Whitman National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

SEC. 104. FLOW MANAGEMENT.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end:

"SEC. 1115. FLOW MANAGEMENT. 16 USC 460m-28.

"(a) FINDINGS.—The Congress finds that adjustments of flows from Bluestone Lake project during periods of low flow are necessary to respond to the congressional mandate contained in section 1110 of this Act and that such adjustments could enhance the quality of the recreational experience in the segments of the river below the lake during those periods as well as protect the biological resources of the river.

"(b) REPORT TO CONGRESS REQUIRED.—The Secretary of the Army, in conjunction with the Secretary of the Interior, shall conduct a study and prepare a report under this section. The report shall be submitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives not later than December 31, 1989. Before submission of the report to these Committees, a draft of the report shall be made available for public comment. The final report shall include the comments submitted by the Secretary of the Interior and the public, together with the response of the Secretary of the Army to those comments. Public information.

"(c) CONTENTS OF STUDY.—The study under this section shall examine the feasibility of adjusting the timing of daily releases from Bluestone Lake project during periods when flows from the lake are less than three thousand cubic feet per second. The purpose of such adjustment shall be to improve recreation (including, but not limited to, fishing and whitewater recreation) in the New River Gorge National River. Any such adjustments in the timing of flows which are proposed in such report shall be consistent with other project purposes and shall not have significant adverse effects on fishing or on any other form of recreation in Bluestone Lake or in any segment of the river below Bluestone Lake. The study shall assess the effects of such flow adjustments on the quality of recreation on the river in the segments of the river between Hinton and Thurmond and between Thurmond and the downstream boundary of the New River Gorge National River, taking into account the levels of recreational visitation in each of such segments. Fish and fishing.

"(d) TEST PROCEDURES.—As part of the study under this section, the Secretary of the Army shall conduct test releases from Bluestone Lake project during twenty-four-hour periods during the summer of 1989 when flows are less than three thousand cubic feet per second from the project. All such adjustments shall conform to the criteria specified in subsection (c). The tests shall provide adjustments in the timing of daily flows from Bluestone Lake project which permit flows higher than the twenty-four-hour average to reach downstream recreational segments of the river during morning and afternoon hours. The tests shall develop specific data on the effects of flow adjustments on the speed of the current and on water surface levels in those segments. No test shall be conducted when flows from the lake are less than one thousand seven hundred cubic feet per second and no test shall reduce flows below that level.". 102 STAT. 2702

SEC. 105. VISITOR FACILITY.

Title XI of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m-15 and following) is amended by adding the following new section at the end thereof:

"SEC. 1116. GLADE CREEK VISITOR FACILITY. 16 USC 460m-29.

"In order to provide for public use and enjoyment of the scenic and natural resources of the New River Gorge National River and in order to provide public information to visitors with respect to the national river and associated State parklands, the Secretary is authorized and directed to construct a scenic overlook and visitor information facility at a suitable location accessible from Interstate Public information.

Appropriation authorization.

64 in the vicinity of Glade Creek within the boundary of the national river. There is authorized to be appropriated such sums as may be necessary to carry out construction (including all related planning and design) of the scenic overlook and visitor information facility.".

TITLE II—GAULEY RIVER NATIONAL RECREATION AREA

16 USC 460ww.

SEC. 201. ESTABLISHMENT.

(a) IN GENERAL.—In order to protect and preserve the scenic, recreational, geological, and fish and wildlife resources of the Gauley River and its tributary, the Meadow River, there is hereby established the Gauley River National Recreation Area (hereinafter in this Act referrred to as the "recreation area").

(b) AREA INCLUDED.—The recreation area shall consist of the land, waters, and interests therein generally depicted on the boundary map entitled "Gauley River National Recreation Area", numbered NRA-GR/20,000A and dated July 1987 and on the boundary map depicting the Meadow River, numbered WSR-MEA/20,000A and dated July 1988. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Public information.

Reports.

(c) BOUNDARY MODIFICATIONS.—Within five years after the enactment of this Act, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a report containing any boundary modifications which the Secretary recommends, together with the reasons therefor.

16 USC 460ww-1.

SEC. 202. ADMINISTRATION.

(a) IN GENERAL.—The recreation area shall be administered by the Secretary in accordance with this Act and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1-4).

(b) HUNTING AND FISHING; FISH STOCKING.—The Secretary shall permit hunting, trapping and fishing on lands and waters within the recreation area in accordance with applicable Federal and State laws. The Secretary may, after consultation with the State of West Virginia Department of Natural Resources, designate zones where, and establish periods when, such activities will not be permitted for reasons of public safety, administration, fish and wildlife habitat or public use and enjoyment subject to such terms and conditions as he deems necessary in the furtherance of this Act. The Secretary shall permit the State of West Virginia to undertake or continue fish stocking activities carried out by the State in consultation with the Secretary on waters within the boundaries of the recreation area. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of West Virginia with respect to fish and wildlife

102 STAT. 2703

Public health and safety.

Law enforcement and crime.

(c) COOPERATIVE AGREEMENTS WITH STATE.—In administering the recreation area the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(d) APPLICATION OF OTHER PROVISIONS.—The provisions of section 7(a) of the Act of October 2, 1968 (16 U.S.C. 1278(a)), shall apply to the recreation area in the same manner and to the same extent as such provisions apply to river segments referred to in such provisions.

(e) RECREATIONAL ACCESS.—

Contracts.

(1) EXISTING PUBLIC ROADS.—The Secretary may enter into a cooperative agreement with the State of West Virginia under which the Secretary shall be authorized to maintain and im-

prove existing public roads and public rights-of-way within the boundaries of the national recreation area to the extent necessary to facilitate and improve reasonable access to the recreation area at existing access points where such actions would not unreasonably diminish the scenic and natural values of the area.

(2) FACILITIES ADJACENT TO DAM.—In order to accommodate visitation to the recreation area, the Secretary shall construct such facilities as necessary to enhance and improve access, vehicle parking and related facilities, and provide river access for whitewater recreation and for other recreational activities, immediately downstream of the Summersville Dam, to the extent that such facilities are not provided pursuant to section 205 and such facilities are within the boundaries of the recreation area. Such construction shall be subject to the memorandum of understanding referred to in subsection (f).

(3) OTHER LOCATIONS.—In addition, in order to provide reasonable public access and vehicle parking for public use and enjoyment of the recreation area, consistent with the preservation and enhancement of the natural and scenic values of the recreation area, the Secretary may, with the consent of the owner thereof, acquire such lands and interests in lands to construct such parking and related facilities at other appropriate locations outside the boundaries of, but within one mile of the recreation area as may be necessary and appropriate. Any such lands shall be managed in accordance with the management provisions for the recreation area as defined in subsection (a).

(f) PROPERTIES AND FACILITIES OF FEDERAL AGENCIES.—After consultation with any other Federal agency managing lands and waters within or contiguous to the recreation area, the Secretary shall enter into a memorandum of understanding with such other Federal agency to identify those areas within the recreation area which are (1) under the administrative jurisdiction of such other agency; (2) directly related to the operation of the Summersville project; and (3) essential to the operation of such project. The memorandum of understanding shall also include provisions regarding the management of all such lands and waters in a manner consistent with the operation of such project and the management of the recreation area.

102 STAT. 2704

SEC. 203. MISCELLANEOUS.

16 USC 460ww-2. Gifts and property.

(a) LANDS AND WATERS.—The Secretary may acquire lands or interests in lands within the boundaries of the recreation area by donation, purchase with donated or appropriated funds, or exchange. When any tract of land is only partly within such boundaries, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs.

(b) JURISDICTION.—Lands, waters and interests therein within the recreation area which are administered by any other agency of the United States and which are not identified under section 202 as directly related to the Summersville project and essential to the operation of that project shall be transferred without reimbursement to the administrative jurisdiction of the Secretary.

(c) PROTECTION OF EXISTING PROJECT.—Nothing in this Act shall impair or affect the requirements of section 1102 of Public Law 99-662 or otherwise affect the authorities of any department or agency of the United States to carry out the project purposes of the Summersville project, including recreation. In releasing water from such project, in order to protect public health and safety and to provide for enjoyment of the resources within the recreation area, other departments and agencies of the United States shall cooperate with the Secretary to facilitate and enhance whitewater recreational use and other recreational use of the recreation area.

16 USC 460ww-3.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purpose of this title.

16 USC 460ww-4. Dams.

SEC. 205. SPECIAL CONDITIONS.

(a) NEW PROJECT CONSTRUCTION.—If, after the enactment of this Act, any department, agency, instrumentality or person commences construction of any dam, water conduit, reservoir, powerhouse, transmission line or other project at or in conjunction with the Summersville project, the department, agency, instrumentality or other person which constructs or operates such new project shall comply with such terms and conditions as the Secretary deems necessary, in his discretion, to protect the resources of the recreation area, including such terms and conditions as the Secretary deems necessary to ensure that such new project will not adversely affect whitewater recreation and other recreation activities during or after project construction.

(b) ADVERSE EFFECTS ON THE RECREATION AREA.—If any such new project referred to in subsection (a) will create a direct, physical, adverse effect on access to the recreation area immediately downstream of the Summersville Dam during or after project construction, including vehicle parking, related facilities, and river access for whitewater recreation and other recreational use of the recreation area, the department, agency, instrumentality or person constructing such project shall replace and enhance the adversely affected facilities in such manner as may be appropriate to accommodate visitation, as determined by the Secretary.

102 STAT. 2705

(c) NEW PROJECT PERMITS.—The terms and conditions referred to in this section shall be included in any license, permit, or exemption issued for any such new project. Any such new project shall be subject to all provisions of this Act, including section 202(d), except that during the four-year period after the enactment of this Act, nothing in this Act shall prohibit the licensing of a project adjacent to Summersville Dam as proposed by the city of Summersville, or by any competing project applicant with a permit or license application on file as of August 8, 1988, if such project complies with this section. If such project is licensed within such four-year period, the Secretary shall modify the boundary map referred to in section 201 to relocate the upstream boundary of the recreation area along a line perpendicular to the river crossing the point five hundred and fifty feet downstream of the existing valve house and one thousand two hundred feet (measured along the river bank) upstream of United States Geological Survey Gauge Numbered 03189600, except in making the modification the Secretary shall maintain within the boundary of the recreation area those lands identified in the boundary map referred to in section 201 which are not necessary to the operation of such project.

16 USC 460ww-5.

SEC. 206. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the Gauley River National Recreation Area Advisory Committee (hereinafter in this Act referred to as the "Advisory Committee"). The Advisory Committee shall be composed of fifteen members appointed by the Secretary to serve for terms of two years. Any member of the Advisory Committee may serve after the expiration of his term until a successor is appointed. Any member of the Advisory Committee may be appointed to serve more than one term. The Secretary or his designee shall serve as Chairman.

(b) MANAGEMENT AND DEVELOPMENT ISSUES.—The Secretary, or his designee, shall meet on a regular basis and consult with the Advisory Committee on matters relating to development of a management plan for the recreation area and on implementation of such plan.

(c) EXPENSES.—Members of the Advisory Committee shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

(d) MEMBERSHIP.—The Secretary shall appoint members to the Advisory Committee as follows:

(1) one member to represent other departments or agencies of the United States administering lands affected by the recreation area, to be appointed from among persons nominated by the head of such department or agency;

(2) two members to represent the State Department of Natural Resources, to be appointed from among persons nominated by the Governor of the State of West Virginia;

(3) one member to represent the State Department of Commerce to be appointed from among persons nominated by the Governor of West Virginia;

102 STAT. 2706

(4) three members to represent the commercial whitewater rafting industry in West Virginia;

(5) one member to represent noncommercial whitewater boating organizations;

(6) one member to represent conservation organizations in West Virginia;

(7) one member to represent individuals engaged in game fishing in West Virginia;

(8) one member to represent the Nicholas County Chamber of Commerce;

(9) one member to represent the Fayette County Chamber of Commerce;

(10) one member to represent recreational users of Summersville Lake; and

(11) two members to represent local citizens or citizens groups which are concerned with the Gauley River or own lands included within the boundaries of the recreation area.

(e) TERMINATION; CHARTER.—The Advisory Committee shall terminate on the date ten years after the enactment of this Act notwithstanding the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776). The provisions of section 14(b) of such Act (relating to the charter of the Committee) are hereby waived with respect to this Advisory Committee.

TITLE III—BLUESTONE NATIONAL SCENIC RIVER

SEC. 301. DESIGNATION OF LOWER BLUESTONE RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) BLUESTONE, WEST VIRGINIA.—The segment in Mercer and Summers Counties, West Virginia, from a point approximately two miles upstream of the Summers and Mercer County line down to the maximum summer pool elevation (one thousand four hundred and ten feet above mean sea level) of Bluestone Lake as depicted on the boundary map entitled 'Bluestone Wild and Scenic River', numbered WSR-BLU/20,000, and dated January 1987; to be administered by the Secretary of the Interior as a scenic river. In carrying out the requirements of subsection (b) of this section, the Secretary shall consult with State and local governments and the interested public. The Secretary shall not be required to establish detailed boundaries of the river as provided under subsection (b) of this section. Nothing in this Act shall preclude the improvement of any existing road or right-of-way within the boundaries of the segment designated under this paragraph. Jurisdiction over all lands and improvements on such lands owned by the United States within the boundaries of the segment designated under this paragraph is hereby transferred without reimbursement to the administrative jurisdiction of the Secretary of the Interior, subject to leases in effect on the date of enactment of this paragraph (or renewed thereafter) between the United States and the State of West Virginia with respect to the Bluestone State Park and the Bluestone Public Hunting and Fishing Area. Nothing in this Act shall affect the management by the State of hunting and fishing within the segment designated under this

Agriculture: *Provided*, That designation and classification shall not preclude the Secretary from exercising discretion to approve construction, operation, and from exercising discretion to approve construction, operation, and maintenance of ski lifts, ski runs, and associated facilities for the land comprising the Mt. Hood Winter Sports Area insofar as such construction does not involve water resource projects and is consistent with protecting the values for which the river was designated.

102 STAT. 2790

"(B) the 13.6-mile segment from the section line between sections 9 and 16, township 3 south, range 9 east, to Deep Creek as a recreational river; to be administered by the Secretary of Agriculture;

"(C) the 6.5-mile segment from Deep Creek to the Mt. Hood National Forest boundary as a scenic river; to be administered by the Secretary of Agriculture;

"(D) the 17.5-mile segment from the Mt. Hood National Forest boundary to Three Mile Creek as a scenic river; to be administered by the Secretary of the Interior;

"(E) the 5.3-mile segment from Three Mile Creek to River Mile 2.2 as a recreational river; to be administered by the Secretary of the Interior; and

"(F) the 1.6-mile segment from River Mile 1.6 to its confluence with the Deschutes River as a recreational river; to be administered by the Secretary of the Interior.".

SEC. 103. WILD AND SCENIC RIVER STUDIES.

Section 5(a) of the Wild and Scenic Rivers Act (Public Law 90-542, 82 Stat. 910), as amended, is further amended by adding the following new paragraphs at the end thereof:

16 USC 1276.

"( ) BLUE, OREGON.—The segment from its headwaters to the Blue River Reservoir; by the Secretary of Agriculture.

"( ) CHEWAUCAN, OREGON.—The segment from its headwaters to the Paisley Urban Growth boundary to be studied in cooperation with, and integrated with, the Klamath River Basin Plan; by the Secretary of Agriculture.

"( ) NORTH FORK MALHEUR, OREGON.—The segment from the Malheur National Forest boundary to Beulah Reservoir; by the Secretary of the Interior.

"( ) SOUTH FORK MCKENZIE, OREGON.—The segments from its headwaters to the upper end of Cougar Reservoir and from the lower end of Cougar Reservoir to its confluence with the McKenzie River; by the Secretary of Agriculture.

"( ) STEAMBOAT CREEK, OREGON.—The entire creek; by the Secretary of Agriculture.

"( ) WALLOWA, OREGON.—The segment from its confluence with the Minam River to its confluence with the Grande Ronde River; by the Secretary of Agriculture.".

SEC. 104. UPPER KLAMATH RIVER STUDY.

Section 5(d) of the Wild and Scenic Rivers Act (Public Law 90-542, 82 Stat. 910) is amended by inserting "(1)" after "(d)" and by inserting the following new paragraph at the end thereof:

"(2) The Congress finds that the Secretary of the Interior, in preparing the Nationwide Rivers Inventory as a specific study for possible additions to the National Wild and Scenic Rivers System, identified the Upper Klamath River from below the John Boyle Dam to the Oregon-California State line. The Secretary, acting through the Bureau of Land Management, is authorized under this subsection to complete a study of the eligibility and suitability of such segment for potential addition to the National Wild and Scenic Rivers System. Such study shall be completed, and a report containing the results of the study shall be submitted to Congress by April 1, 1990. Nothing in this paragraph shall affect the authority or responsibilities of any other Federal agency with respect to activities or actions on this segment and its immediate environment.".

Reports.

102 STAT. 2791

paragraph. Nothing in this Act shall affect or impair the management by the State of West Virginia of other wildlife activities in the
102 STAT. 2707 Bluestone Public Hunting and Fishing Area to the extent permitted in the lease agreement as in effect on the enactment of this paragraph, and such management may be continued pursuant to renewal of such lease agreement. If requested to do so by the State of West Virginia, the Secretary may terminate such leases and assume administrative authority over the areas concerned. Nothing in the designation of the segment referred to in this paragraph shall affect or impair the management of the Bluestone project or the authority of any department, agency, or instrumentality of the United States to carry out the project purposes of that project as of the date of enactment of this paragraph. Nothing in this Act shall be construed to affect the continuation of studies relating to such project which were commenced before the enactment of this paragraph.".

TITLE IV—GENERAL PROVISIONS

16 USC 460m-15 note.

SEC. 401. COORDINATION AMONG RECREATIONAL RESOURCES.

Subject to existing authority, the Secretary of the Interior shall cooperate with, and assist, any regional authority comprised of representatives of West Virginia State authorities and local government authorities in or any combination of the foregoing Nicholas, Fayette, Raleigh, Summers, Greenbrier, and Mercer Counties, West Virginia, for the purposes of providing for coordinated development and promotion of recreation resources of regional or national significance which are located in southern West Virginia and management by State or Federal agencies, including State, local and National Park System units, State and National Forest System units, and historic sites.

16 USC 460m-15 note.
Contracts.

SEC. 402. SPECIAL PROVISIONS.

Subject to his responsibilities to protect the natural resources of the National Park System, the Secretary of the Interior shall enter into a cooperative agreement with the State of West Virginia providing for the State's regulation, in accordance with State law, of persons providing commercial recreational watercraft services on units of the National Park System and components of the National Wild and Scenic Rivers System subject to this Act.

16 USC 1274 note.

SEC. 403. PUBLIC AWARENESS PROGRAM.

The Secretary of the Interior shall establish a public awareness program to be carried out in Mercer, Nicholas, and Greenbrier Counties, West Virginia, in cooperation with State and local agencies, landowners, and other concerned organizations. The program shall be designed to further public understanding of the effects of designation as components of the National Wild and Scenic Rivers System of segments of the Bluestone and Meadow Rivers which were found eligible in the studies completed by the National Park Service in August 1983 but which were not designated by this Act as
Reports. units of such system. By December 31, 1992, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate
Termination date. describing the program undertaken pursuant to this section. Section 7(b) of the Wild and Scenic Rivers Act shall continue to apply to the
102 STAT. 2708 segments subject to this section until December 31, 1992.

16 USC 460m-15 note.

SEC. 404. CONSOLIDATED MANAGEMENT.

In order to achieve the maximum economy and efficiency of operations in the administration of the National Park System units established or expanded pursuant to this Act, the Secretary shall consolidate offices and personnel administering all such units to the extent practicable and shall utilize the existing facilities of the New River Gorge National River to the extent practicable.

16 USC 1274 note.

SEC. 105. INDIAN TREATY LANDS AND ADMINISTRATIVE PROVISIONS.

(a)(1) Lands now or hereafter held in trust by the United States for the benefit of an Indian tribe or individual Indian shall not be included within the boundaries of the Deschutes or Metolius Rivers as designated by this title without the consent of the applicable tribal council.

Contracts.

(2) When Indian treaty lands exist in association with lands included in the National Wild and Scenic Rivers System under this title, the Secretaries of the Interior and Agriculture, as appropriate, shall fully consult and enter into written cooperative management agreements with the affected Indian tribe for planning, administration, and management of such areas as provided in section 10(e) of this Act.

(b) Nothing in this title shall affect:

(1) The jurisdiction or responsibilities of an Indian tribe with respect to fish, wildlife, land, and water management;

(2) the treaty or other rights of an Indian tribe;

(3) the water and land claims, present or future, of an Indian tribe;

(4) the relicensing or amending the license of the Pelton Hydroelectric Project, FERC Project No. 2030 so long as such project does not adversely affect the values for which the Deschutes River was designated;

(5) the rights or jurisdiction of Indian tribes over waters or any river or stream within the affected river area or stream, or over any ground water resource; or

(6) the beneficial ownership interest of land held in trust, now or hereafter, by the United States for Indian Tribes or individual Indians.

(c) Nothing in this title shall preclude or impair the use by the City of Portland, Oregon, of water in the Bull Run and Little Sandy Rivers to the extent that such water is necessary for the purpose of municipal water supply.

16 USC 1274 note.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal years after the fiscal year 1988—

(a) for the purpose of acquisition of lands, waters, and interests therein pursuant to this title, not to exceed $5,000,000;

(b) for the purpose of preparing the studies for the rivers and river segments listed in section 103 of this title, not to exceed $2,500,000; and

(c) for the purpose of preparing the study of the river segment listed in section 104 of this title, not to exceed $200,000.

Umatilla Basin Project Act.
Fish and fishing.

TITLE II—UMATILLA BASIN PROJECT, OREGON

SEC. 201. SHORT TITLE.

This title may be cited as the "Umatilla Basin Project Act".

SEC. 202. AUTHORIZATION OF PROJECT.

102 STAT. 2792 (a) For purposes of mitigating losses to anadromous fishery resources and continuing water service to the Hermiston, West Extension, Westland, and Stanfield Irrigation Districts, for the project water exchange, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, and Acts amendatory thereof and supplementary thereto), is authorized to construct, operate, and maintain the Umatilla Basin Project, Oregon, substantially in accordance with the report entitled: "Umatilla Basin Project, Oregon, Planning Report" dated February 12, 1988, in the manner specified by this title. The principal work of the project shall consist of—

(1) lands, water rights, or interests therein acquired for the benefit of fishery resources;

(2) measures to conserve water and improve the efficiency of the existing conveyance, distribution, and drainage systems of

acquire scenic easements for purposes of this paragraph as provided in section 6 of this Act.

Appropriation authorization.

"(D) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this paragraph.".

Approved October 28, 1988.

LEGISLATIVE HISTORY—S. 1914:

HOUSE REPORTS: No. 100-904 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-369 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 7, considered and passed Senate.
Sept. 13, considered and passed House, amended.
Oct. 12, Senate concurred in House amendment.

102 STAT. 2782

Public Law 100-557
100th Congress

An Act

Oct. 28, 1988
[S. 2148]

To amend the Wild and Scenic Rivers Act of 1968, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Oregon Wild and Scenic Rivers Act of 1988.

TITLE I—OMNIBUS OREGON WILD AND SCENIC RIVERS ACT OF 1988

16 USC 1271 note.

SEC. 101. SHORT TITLE.

This title may be referred to as the "Omnibus Oregon Wild and Scenic Rivers Act of 1988".

16 USC 1274.

SEC. 102. AMENDMENTS TO THE WILD AND SCENIC RIVERS ACT.

Section 3(a) of the Wild and Scenic Rivers Act (Public Law 90-542, 82 Stat. 907), as amended, is further amended by adding the following new paragraphs at the end thereof:

"( ) BIG MARSH CREEK, OREGON.—The 15-mile segment from the northeast quarter of section 15, township 26 south, range 6 east, to its confluence with Crescent Creek in the northeast quarter of section 20, township 24 south, range 7 east, as a recreational river; to be administered by the Secretary of Agriculture: *Provided,* That nothing in this Act shall prohibit the Secretary from undertaking construction activities to enhance and restore wetland resources associated with Big Marsh Creek.

"( ) CHETCO, OREGON.—The 44.5-mile segment from its headwaters to the Siskiyou National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 25.5-mile segment from its headwaters to Boulder Creek at the Kalmiopsis Wilderness boundary as a wild river;

"(B) the 8-mile segment from Boulder Creek to Steel Bridge as a scenic river; and

"(C) the 11-mile segment from Steel Bridge to the Siskiyou National Forest boundary, one mile below Wilson Creek, as a recreational river.

"( ) CLACKAMAS, OREGON.—The 47-mile segment from Big Springs to Big Cliff; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 4-mile segment from Big Springs to the Forest Service Road 4690 bridge as a scenic river;

"(B) the 3.5-mile segment from the Forest Service Road 4690 bridge to the junction with Oregon State Highway 224 as a recreational river;

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE V—"A" MOUNTAIN LAND EXCHANGE

SEC. 501. SOUTHERN RIO GRANDE LAND EXCHANGE.

Minerals and mining. Claims.

The Secretary of the Interior is authorized to exchange certain lands as identified for disposal in the Southern Rio Grande Plan Amendment for certain mining claims on lands withdrawn for the National Aeronautic and Space Administration and New Mexico A and M College (now New Mexico State University) under P.L.O. 3685 and P.L.O. 2051. Once the United States determines the claims are valid under existing law, the exchange authorized by the preceding sentence shall be made on an equal value basis as determined by an independent appraisal.

SEC. 502. LAND EXCHANGE.

(a) The Secretary of the Interior is authorized and directed to make available for exchange the Federal interests in the lands described in subsection (b) for the private interests in the lands described in subsection (c). The exchange shall be made in a manner consistent with applicable provisions of law and shall be on the basis of equal value as provided in section 206 of the Federal Land Management Act of 1976 (43 U.S.C. 1716).

(b) The Federal interests to be made available for exchange under this section are those lands in sections 14, 22, 23, 26, and 35 of township 23 south, range 2 east, New Mexico Principal Meridian which are encompassed by P.L.O. 2051.

(c) The private interests to be exchanged pursuant to this section are those lands owned by New Mexico State University in sections 19, 29, 30, and 31 of township 22 south, range 4 east, and section 6 of township 23 south, range 4 east, New Mexico Principal Meridian. The exchange may be made regardless of the reverter provision contained in the patent of those lands to the Regents of the Agricultural College of New Mexico and shall not be deemed to constitute the basis for reversion.

102 STAT. 2800

(d) Lands not acquired by New Mexico State University pursuant to this section and which are encompassed by P.L.O. 2051 may be disposed of, when available for disposition, by sale to or exchange with the State of New Mexico, New Mexico State University, or other public entities in accordance with the Recreation and Public Purposes Act (43 U.S.C. 869 et seq.): *Provided, however,* That New Mexico State University is given a right of first refusal on any proposed disposition.

Education. Science and technology. Research and development. Energy.

(e) None of the lands transferred to New Mexico State University pursuant to this section shall be sold by New Mexico State University. All such lands shall be used for the purposes of promoting directly or indirectly educational, scientific, and research activities, including those activities currently authorized under P.L.O. 2051, or promoting the utilization of the natural geothermal resources located within the boundaries of the lands transferred. In the event that the lands transferred to New Mexico State University pursuant to this section are used for any purpose other than those for which conveyance is authorized by this subsection, title to that portion of the lands upon which there is an unauthorized use shall immediately revert to the United States without the necessity for further action to accomplish the reversion of title to the United States.

(f) Notwithstanding any other provision of law or court order, the Secretary of the Interior, if the Secretary determines it is necessary and appropriate for the purpose of consummating a conveyance of lands or interests therein under this Act, is hereby authorized and directed to revoke P.L.O. 2051 or any portion thereof necessary to consummate the transaction authorized by this title.

SEC. 405. NEW SPENDING AUTHORITY SUBJECT TO APPROPRIATIONS. 16 USC 460m-15 note.

Any new spending authority which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriation Acts.

TITLE V—TECHNICAL CHANGE TO WILD AND SCENIC RIVERS ACT

SEC. 501. ACREAGE LIMITATIONS.

Notwithstanding the provisions of section 501(b)(1)(B) of Public Law 99-590, section 3(b) of the Wild and Scenic River Act (16 U.S.C. 1274(b)) is amended to read as follows:

"(b) The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsection (a) of this section shall, within one year from the date of designation of such component under subsection (a) (except where a different date if provided in subsection (a)), establish detailed boundaries therefor (which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river); and determine which of the classes outlined in section 2, subsection (b), of this Act best fit the river or its various segments.

"Notice of the availability of the boundaries and classification, and of subsequent boundary amendments shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.". Federal Register, publication.

Approved October 26, 1988.

LEGISLATIVE HISTORY—H.R. 900:

HOUSE REPORTS: No. 100-106 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-481 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): May 27, considered and passed House.
Vol. 134 (1988): Sept. 8, considered and passed Senate, amended.
Oct. 3, 4, House concurred in Senate amendment with an amendment.
Oct. 7, Senate concurred in House amendment.

Public Law 100-541
100th Congress

102 STAT. 2720

An Act

To modify the boundary of the Guadalupe Mountains National Park, and for other purposes.

Oct. 28, 1988
[H.R. 4777]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Texas.

SECTION 1. BOUNDARY MODIFICATION.

The first section of the Act entitled "An Act to provide for the establishment of the Guadalupe Mountains National Park in the State of Texas, and for other purposes" (16 U.S.C. 283) is amended—

(1) by changing "in" after "That" to "(a) In"; and

(2) by adding at the end thereof the following:

"(b) The boundary of Guadalupe Mountains National Park is hereby modified to include the area which comprises approximately 10,123 acres as generally depicted on the map entitled 'Boundary Proposal' and dated August 1986, which shall be on file and available for public inspection in the office of the Director of the National Public information.

Park Service and in the office of the Superintendent of the Guadalupe Mountains National Park.".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

16 USC 283e.

(a) PROTECTION OF AREA.—Section 6 of the Act entitled "An Act to provide for the establishment of the Guadalupe Mountains National Park in the State of Texas, and for other purposes" (16 U.S.C. 283) is amended—

(1) by inserting "(a)" after "SEC. 6"; and

(2) by inserting at the end thereof the following:

"(b) In addition to amounts authorized to be appropriated under subsection (a), there is authorized to be appropriated such sums as may be necessary for the construction of a fence to protect the natural and cultural resources of the area added to Guadalupe Mountains National Park by section 2(b).".

(b) LAND ACQUISITION.—Subsection (a) of section 6 of such Act (as redesignated by subsection (a) of this section) is amended by striking out "sums," and all that follows through "all," and inserting in lieu thereof "sums".

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.R. 4777:

HOUSE REPORTS: No. 100-837 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 8, considered and passed House.
Oct. 14, considered and passed Senate.

102 STAT. 2766 Public Law 100-552
100th Congress

An Act

Oct. 28, 1988
[S. 1704]

To authorize the establishment of the Lewis and Clark National Historic Trail Interpretive Center in the State of Montana, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 1244 note.

SECTION 1. FINDINGS.

The Congress finds that—

(1) the site at which the historic Lewis and Clark Expedition commenced in St. Louis, Missouri, and the site at which the expedition terminated at Fort Clatsop in Oregon have been recognized as sites of historic significance on the Lewis and Clark National Historic Trail; and

(2) the historic significance of the travels of Lewis and Clark on the High Plains and their portage around the Great Falls of the Missouri requires additional recognition and interpretation.

16 USC 1244 note.

SEC. 2. ESTABLISHMENT.

(a) LEWIS AND CLARK NATIONAL HISTORIC TRAIL INTERPRETIVE CENTER.—That to further the public's understanding and provide appropriate interpretation of the scope and accomplishments of the Lewis and Clark Expedition, within the State of Montana and along the Lewis and Clark National Historic Trail, the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") is authorized to establish the Lewis and Clark National Historic Trail Interpretive Center (hereinafter in this Act referred to as the "Center"). The Secretary shall establish the Center upon the transfer by the State of Montana to the United States of the lands described in subsection (b) and such additional easements and other

(b) TREATMENT OF NON-FEDERAL COSTS INCURRED IN IMPLEMENTING PROJECT FEATURES BEFORE APPROPRIATIONS.—To the extent any public or private entity shares in the cost of or constructs any feature of the project or portion thereof prior to the appropriation of funds for construction of such feature, the costs incurred shall be credited to the total amount of any cost sharing required for the project. The Secretary is authorized to accept title to facilities appropriate to the project without compensation and thereafter to operate and maintain such facilities.

SEC. 208. CONJUNCTIVE USE OF PUMPING FACILITIES.

When project pumping capacity is available in excess of that needed for fishery resource benefits as determined by the Secretary of the Interior, such project pumping capacity may be made available for use on presently irrigated lands eligible for service within the irrigation districts that participate in the project authorized in this title at a rate based on the operation and maintenance costs related to such conjunctive use and an appropriate share of capital costs for such use as specified by an agreement between the Secretary of the Interior and the irrigation districts: *Provided*, That (a) boundaries of the irrigation districts may be modified, upon approval of the Secretary of the Interior, to include such lands that received irrigation water service from those districts prior to October 1, 1988; and (b) that such use shall be considered as secondary to the purpose of providing water for fishery resource purposes. Pumping power for this purpose shall be provided to the Bureau of Reclamation by the Administrator of the Bonneville Power Administration. The Administrator's rate for this service during the peak period shall be the forecasted average rate to be paid by public agencies for irrigation loads during peak periods. The rate during the off peak period shall be the rate paid by public agencies for irrigation loads during off peak periods. The cost of power for such pumping, and the cost of transmitting power from the Federal Columbia River Power System to the project pumping facilities shall be borne by irrigation districts receiving the benefit of such water.

102 STAT. 2794

SEC. 209. LEASE AND PURCHASE OF WATER.

The Secretary is authorized to acquire from willing parties land, water rights, or interests therein for benefit of fishery resources consistent with the purpose of this title: *Provided*, That acquisition of water rights shall be in accordance with applicable State law. There is hereby authorized to be appropriated not more than $1,000,000 to accomplish the purposes of this section.

Appropriation authorization.

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

(a) There is hereby authorized to be appropriated for construction of the Umatilla Basin Project and the study authorized by section 213 of this title the sum of $42,400,000 (April 1987 prices), less any amounts previously appropriated for the project, plus or minus such amounts as may be required by reason of changes in the cost of construction work of the types involved therein as shown by applicable engineering cost indices and exclusive of facilities indicated in section 210(b) of this title: *Provided*, That such funds are authorized to be appropriated only through the tenth fiscal year after which construction funds are first made available: *Provided further*, That all costs, including operation and maintenance costs, allocated to the mitigation of anadromous fish species and the study authorized in section 213 of this title shall be nonreimbursable. There are also authorized to be appropriated such sums as may be required for the Federal share of operation and maintenance of the project, including the monitoring and evaluation of project accomplishments.

(b) Related fish passage and protective facilities constructed or to be constructed by the Bonneville Power Administration that are features of the Columbia River Fish and Wildlife Program estab-

rights as the Secretary deems necessary to ensure adequate public access to the Center.

(b) MAP.—The Center shall consist of those lands, located in the vicinity of Great Falls, Montana, donated by the State of Montana, not to exceed fifty acres, as generally depicted on the map entitled "Boundary Map, Proposed Lewis and Clark National Historic Trail Interpretive Center", dated June 1980. The map shall be on file and available for public inspection in the offices of the Chief, United States Forest Service, Department of Agriculture, and the State of Montana Department of Fish, Wildlife, and Parks. Public information.

(c) REVERSION OF LANDS.—Any lands or portions of lands granted to the Secretary by the State of Montana for use in connection with the Center shall revert to the State of Montana if, at any time, the Secretary uses such lands for any purpose other than those authorized under this Act.

SEC. 3. ADMINISTRATION. 16 USC 1244 note.

(a) AUTHORIZATION.—The Secretary shall administer the Center in accordance with this Act and the laws, rules, and regulations applicable to the national forests in such manner as will best provide for the interpretation of the scope and accomplishments of the Lewis and Clark Expedition, along the Lewis and Clark National Historic Trail within the State of Montana. In no event shall the Center be used for purposes other than those provided for by this Act.

102 STAT. 2767

(b) PLAN.—Within two years after the establishment of the Center, the Secretary shall prepare and submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a plan for the development and interpretation of the Center. Such plan shall include but not be limited to provisions for—

(1) interpretation to the public of available historic resources, documents, and artifacts associated with the Lewis and Clark Expedition, and

(2) development of facilities for public use and enjoyment of the area.

(c) DONATIONS.—Notwithstanding any other provision of law, the Secretary may accept donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities which he deems consistent with the purposes of this Act.

(d) COOPERATIVE AGREEMENTS.—In administering the Center, the Secretary is authorized to enter into cooperative agreements with the State of Montana, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and firefighting departments or agencies. The Secretary is also authorized to enter into cooperative agreements with other Federal agencies, and with State or local public agencies for the development and operation of facilities and services in furtherance of the purposes of this Act. The Secretary is encouraged to develop, in conjunction with the State of Montana, a cooperative management plan for the entire Giant Springs Park which will enhance the general public's opportunity to use and enjoy the Center as well as the nearby historical sites, and other State and Federal lands. Public health and safety. Law enforcement and crime.

(e) COOPERATING ASSOCIATION.—The Secretary is authorized and directed to enter into an agreement with the Portage Route chapter of the Lewis and Clark Heritage Foundation or a similarly affiliated organization to provide educational and interpretive materials to the public that highlight the travels of Lewis and Clark, High Plains Indians, explorers, or other historical features of the area, that are compatible with the purposes of the Center. Such agreement shall include but not be limited to each of the following: Education.

(1) Provisions requiring the Foundation to obtain and maintain its status as a nonprofit tax-exempt organization.

(2) A provision permitting the Secretary to have access to the documents and records of the Foundation that involve the Center.

(3) The Foundation shall agree to return to the Center the profits earned from the sale of educational and interpretive materials.

(4) Minimum operating requirements and procedures for the sale of educational and interpretive materials at the Center.

(5) A procedure to settle disagreements between the Foundation and the Secretary.

102 STAT. 2768

(6) Reasonable rent and maintenance costs for the use of an area within the Center.

(7) Other items of mutual agreement.

The Secretary may terminate the agreement for good cause.

16 USC 1244 note.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), there is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, including such sums as may be necessary for the planning and designing of, and site preparation for, the Center and associated structures and improvements.

(b) CONSTRUCTION OF INTERPRETIVE CENTER.—There is hereby authorized to be appropriated not more than $3,500,000 for the construction of the Lewis and Clark National Historic Trail Interpretive Center and associated structures and improvements.

(c) Any new spending authority described in subsection (c)(2)(A) of section 401 of the Congressional Budget Act of 1974 which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

SEC. 5. MISSOURI RIVER WILD AND SCENIC RIVER.

16 USC 1274 note.

Subsection (g) of section 203 of the Act approved October 12, 1976 (90 Stat. 2327, 2329), is amended as follows:

(1) Strike out "except" in paragraph (1)(G) and insert in lieu thereof "including".

(2) Strike out "National Park Service" in paragraph (2) and insert in lieu thereof "Bureau of Land Management".

Approved October 28, 1988.

LEGISLATIVE HISTORY—S. 1704 (H.R. 1982):

HOUSE REPORTS: No. 100-788 accompanying H.R. 1982 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-526 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, H.R. 1982 considered and passed House.
Oct. 11, S. 1704 considered and passed Senate.
Oct. 12, considered and passed House.

102 STAT. 2776

Public Law 100-554
100th Congress

An Act

Oct. 28, 1988
[S. 1914]

To designate a segment of the Wildcat River in the State of New Hampshire as a component of the National Wild and Scenic Rivers System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF WILDCAT RIVER.

In order to preserve and protect for present and future generations the outstanding scenic, natural, recreational, scientific, his-

toric, and ecological values of the Wildcat River in the State of New Hampshire, section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) as amended, by adding the following new paragraph at the end thereof:

"(65) WILDCAT RIVER, NEW HAMPSHIRE.—(A) A 14.51 mile segment including the following tributaries: Wildcat Brook, Bog Brook, and Great Brook (all as generally depicted on a map entitled 'Wildcat River', dated October 1987) to be administered as follows: those segments of the Wildcat River and its tributaries located within the boundary of the White Mountain National Forest (hereinafter in this paragraph referred to as 'the forest') shall be administered by the Secretary of Agriculture (hereinafter in this paragraph referred to as the 'Secretary'); those segments located outside the boundary of the forest shall be administered by the Secretary through a cooperative agreement with the Board of Selectmen of the town of Jackson and the State of New Hampshire pursuant to section 10(e) of this Act. Such agreement shall provide for the long-term protection, preservation, and enhancement of the river segments located outside the boundary of the forest and shall be consistent with the comprehensive management plan to be prepared by the Secretary pursuant to section 3(d) of this Act and with the July 1987 River Conservation Plan prepared by the Wildcat Brook Advisory Committee in conjunction with the National Park Service. Contracts.

"(B)(i) To assist in the implementation of this paragraph, the Secretary shall establish, within 3 months after the date of enactment of this subparagraph, a Wildcat River Advisory Commission (hereinafter in this paragraph referred to as the 'Commission').

"(ii) The Commission shall be composed of 7 members appointed by the Secretary as follows: one member from recommendations submitted by the Governor of the State of New Hampshire; 4 members from recommendations submitted by the Jackson Board of Selectmen, of which at least 2 members shall be riparian property owners, and at least one member shall be on the Board of Selectmen; one member from recommendations submitted by the Jackson Conservation Commission; and one member selected by the Secretary. Members of the Commission shall be appointed for terms of 3 years. A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Any member of the Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. The Commission shall designate one of its members as Chairman.

102 STAT. 2777

"(iii) The Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the designation of the segments described in this paragraph. Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement. Public information.

"(iv) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this paragraph on vouchers signed by the Chairman.

"(v) Four members of the Commission shall constitute a quorum but a lesser number may hold hearings.

"(vi) The Commission shall cease to exist on the date 10 years after the enactment of this paragraph.

"(vii) The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to the Commission.

"(C) The authority of the Secretary to acquire lands outside the boundary of the White Mountain National Forest for purposes of this paragraph shall be limited to acquisition by donation or acquisition with the consent of the owner thereof. The Secretary may also

"(A) The 5-mile segment from its headwaters to the Eagle Cap Wilderness boundary as a wild river; and

"(B) the 11-mile segment from the Eagle Cap Wilderness boundary to the Wallowa-Whitman National Forest boundary at Silver Creek as a recreational river.

"( ) MALHEUR, OREGON.—The 13.7-mile segment from Bosonberg Creek to the Malheur National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 7-mile segment from Bosonberg Creek to Malheur Ford as a scenic river; and

"(B) the 6.7-mile segment from Malheur Ford to the Malheur National Forest boundary as a wild river.

"( ) MCKENZIE, OREGON.—The 12.7-mile segment from Clear Lake to Scott Creek; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 1.8-mile segment from Clear Lake to the head of maximum pool at Carmen Reservoir as a recreational river;

"(B) the 4.3-mile segment from a point 100 feet downstream from Carmen Dam to the maximum pool at Trail Bridge Reservoir as a recreational river; and

"(C) the 6.6-mile segment from the developments at the base of the Trail Bridge Reservoir Dam to Scott Creek as a recreational river.

"( ) METOLIUS, OREGON.—The 28.6-mile segment from the south Deschutes National Forest boundary to Lake Billy Chinook in the following classes:

"(A) The 11.5-mile segment from the south Deschutes National Forest boundary (approximately 2,055.5 feet from Metolius Springs) to Bridge 99 as a recreational river; to be administered by the Secretary of Agriculture;

"(B) the 17.1-mile segment from Bridge 99 to Lake Billy Chinook as a scenic river; by the Secretary of Agriculture, through a cooperative management agreement between the Secretary of the Interior and the Confederated Tribes of the Warm Springs Reservation, as provided in section 10(e) of this Act and section 105 of the Omnibus Oregon Wild and Scenic Rivers Act of 1988: *Provided*, That the river and its adjacent land area will be managed to provide a primitive recreational experience as defined in the ROS User's Guide.

"( ) MINAM, OREGON.—The 39-mile segment from its headwaters at the south end of Minam Lake to the Eagle Cap Wilderness boundary, one-half mile downstream from Cougar Creek, as a wild river; to be administered by the Secretary of Agriculture.

102 STAT. 2786

"( ) NORTH FORK CROOKED, OREGON.—The 32.3-mile segment from its source at Williams Prairie to one mile from its confluence with the Crooked River in the following classes:

"(A) The 3-mile segment from its source at Williams Prairie to the Upper End of Big Summit Prairie as a recreational river; to be administered by the Secretary of Agriculture;

"(B) the 3.7-mile segment from the Lower End of Big Summit Prairie to the bridge across from the Deep Creek Campground as a recreational river; to be administered by the Secretary of Agriculture;

"(C) the 8-mile segment from the bridge across from the Deep Creek Campground to the Ochoco National Forest boundary, one-half mile from Lame Dog Creek as a scenic river; to be administered by the Secretary of Agriculture;

"(D) the 1.5-mile segment from the Ochoco National Forest boundary to Upper Falls as a scenic river; to be administered by the Secretary of the Interior;

"(E) the 11.1-mile segment from Upper Falls to Committee Creek as a wild river; to be administered by the Secretary of the Interior; and

"(F) the 5-mile segment from Committee Creek to one mile from its confluence with the Crooked River as a recreational river; to be administered by the Secretary of the Interior.

"( ) NORTH FORK JOHN DAY, OREGON.—The 54.1-mile segment from its headwaters in the North Fork of the John Day Wilderness Area at section 13, township 8 south, range 36 east, to its confluence with Camas Creek in the following classes:

"(A) The 3.5-mile segment from its headwaters in the North Fork of the John Day Wilderness at section 13, township 8 south, range 36 east, to the North Fork of the John Day Wilderness boundary as a wild river; to be administered by the Secretary of Agriculture;

"(B) the 7.5-mile segment from the North Fork of the John Day Wilderness boundary to Trail Creek as a recreational river; to be administered by the Secretary of Agriculture;

"(C) the 24.3-mile segment from Trail Creek to Big Creek as a wild river; to be administered by the Secretary of Agriculture;

"(D) the 10.5-mile segment from Big Creek to Texas Bar Creek as a scenic river; to be administered by the Secretary of Agriculture; and

"(E) the 8.3-mile segment from Texas Bar Creek to its confluence with Camas Creek as a recreational river; to be administered by the Secretary of Agriculture.

"( ) NORTH FORK MALHEUR, OREGON.—The 25.5-mile segment from its headwaters to the Malheur National Forest boundary as a scenic river; to be administered by the Secretary of Agriculture.

"( ) NORTH FORK OF THE MIDDLE FORK OF THE WILLAMETTE, OREGON.—The 42.3-mile segment from Waldo Lake to the Willamette National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 8.8-mile segment from Waldo Lake to the south section line of section 36, township 19 south, range 5½ east as a wild river;

"(B) the 6.5-mile segment from the south section line of section 36, township 19 south, range 5½ east to Fisher Creek as a scenic river; and

102 STAT. 2787

"(C) the 27-mile segment from Fisher Creek to the Willamette National Forest boundary as a recreational river.

"( ) NORTH FORK OWYHEE, OREGON.—The 8-mile segment from the Oregon-Idaho State line to its confluence with the Owyhee River as a wild river; to be administered by the Secretary of the Interior.

"( ) NORTH FORK SMITH, OREGON.—The 13-mile segment from its headwaters to the Oregon-California State line; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 6.5-mile segment from its headwaters to Horse Creek as a wild river;

"(B) the 4.5-mile segment from Horse Creek to Baldface Creek as a scenic river; and

"(C) the 2-mile segment from Baldface Creek to the Oregon-California State line as a wild river.

"( ) NORTH FORK SPRAGUE, OREGON.—The 15-mile segment from the head of River Spring in the southwest quarter of section 15, township 35 south, range 16 east, to the northwest quarter of the southwest quarter of section 11, township 35 south, range 15 east, as a scenic river; to be administered by the Secretary of Agriculture.

"( ) NORTH POWDER, OREGON.—The 6-mile segment from its headwaters to the Wallowa-Whitman National Forest boundary at River Mile 20 as a scenic river; to be administered by the Secretary of Agriculture.

"( ) NORTH UMPQUA, OREGON.—The 33.8-mile segment from the Soda Springs Powerhouse to Rock Creek in the following classes:

"(A) The 25.4-mile segment from the Soda Springs Powerhouse to the Umpqua National Forest boundary as a recreational river; to be administered by the Secretary of Agriculture; and

"(B) the 8.4-mile segment from the Umpqua National Forest boundary to its confluence with Rock Creek as a recreational river; to be administered by the Secretary of the Interior.

"( ) POWDER, OREGON.—The 11.7-mile segment from Thief Valley Dam to the Highway 203 bridge as a scenic river; to be administered by the Secretary of the Interior.

"( ) QUARTZVILLE CREEK, OREGON.—The 12-mile segment from the Willamette National Forest boundary to slack water in Green Peter Reservoir as a recreational river; to be administered by the Secretary of the Interior.

"( ) ROARING, OREGON.—The 13.7-mile segment from its headwaters to its confluence with the Clackamas River; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 13.5-mile segment from its headwaters to one-quarter mile upstream of the mouth as a wild river; and

"(B) the 0.2-mile segment from one-quarter mile upstream of the mouth to its confluence with the Clackamas River as a recreational river.

"( ) SALMON, OREGON.—The 33.5-mile segment from its headwaters to its confluence with the Sandy River in the following classes:

"(A) The 7-mile segment from its headwaters to the south boundary line of section 6, township 4 south, range 9 east as a recreational river; to be administered by the Secretary of Agriculture: *Provided*, That designation and classification shall not preclude the Secretary from exercising discretion to approve the construction, operation, and maintenance of ski lifts, ski runs, and associated facilities for the land comprising the Timberline Lodge Winter Sports Area insofar as such construction does not involve water resources projects; 102 STAT. 2788

"(B) the 15-mile segment from the south boundary line at section 6, township 4 south, range 9 east to the junction with the South Fork of the Salmon River as a wild river; to be administered by the Secretary of Agriculture;

"(C) the 3.5-mile segment from the junction with the south fork of the Salmon River to the Mt. Hood National Forest boundary as a recreational river; to be administered by the Secretary of Agriculture;

"(D) the 3.2-mile segment from the Mt. Hood National Forest boundary to Lymp Creek as a recreational river; to be administered by the Secretary of the Interior; and

"(E) the 4.8-mile segment from Lymp Creek to its confluence with the Sandy River as a scenic river, to be administered by the Secretary of the Interior.

"( ) SANDY, OREGON.—Those portions as follows:

"(A) The 4.5-mile segment from its headwaters to the section line between sections 15 and 22, township 2 south, range 8 east as a wild river; to be administered by the Secretary of Agriculture;

"(B) the 7.9-mile segment from the section line between sections 15 and 22, township 2 south, range 8 east to the Mt. Hood National Forest boundary at the west section line of section 26, township 2 south, range 7 east as a recreational river; to be administered by the Secretary of Agriculture; and

"(C) the 12.5-mile segment from the east boundary of sections 25 and 36, township 1 south, range 4 east in Clackamas County near Dodge Park, downstream to the west line of the east half of the northeast quarter of section 6, township 1 south, range 4 east, in Multnomah County at Dabney State Park, the upper 3.8 miles as a scenic river and the lower 8.7 miles as a recreational river; both to be administered through a cooperative management agreement between the State of Oregon, the Secretary of the Interior and the Counties of Multnomah and Clackamas in accordance with section 10(e) of this Act.

"( ) SOUTH FORK JOHN DAY, OREGON.—The 47-mile segment from the Malheur National Forest to Smokey Creek as a recreational river; to be administered by the Secretary of the Interior.

"( ) SQUAW CREEK, OREGON.—The 15.4-mile segment from its source to the hydrologic Gaging Station 800 feet upstream from the intake of the McAllister Ditch, including the Soap Fork Squaw Creek, the North Fork, the South Fork, the East and West Forks of Park Creek, and Park Creek Fork; to be administered by the Secretary of Agriculture as follows:

"(A) The 6.6-mile segment and its tributaries from the source to the Three Sisters Wilderness boundary as a wild river; and

"(B) the 8.8-mile segment from the boundary of the Three Sisters Wilderness Area to the hydrologic Gaging Station 800 feet upstream from the intake of the McAllister Ditch as a scenic river: *Provided*, That nothing in this Act shall prohibit the construction of facilities necessary for emergency protection for the town of Sisters relative to a rapid discharge of Carver Lake if no other reasonable flood warning or control alternative exists.

"( ) SYCAN, OREGON.—The 59-mile segment from the northeast quarter of section 5, township 34 south, range 17 east to Coyote Bucket at the Fremont National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

102 STAT. 2789

"(A) The 26.4-mile segment from the northeast quarter of section 5, township 34 south, range 17 east to the west section line of section 22, township 32 south, range 14½ east, as a scenic river;

"(B) the 8.6-mile segment from the west section line of section 22, township 32 south, range 14 east, to the Fremont National Forest boundary in the southeast quarter of section 10, township 33 south, range 13 east, as a recreational river; and

"(C) the 24-mile segment from the Fremont National Forest boundary in the southwest quarter of section 10, township 33 south, range 13 east, to Coyote Bucket at the Fremont National Forest boundary, as a scenic river.

"( ) UPPER ROGUE, OREGON.—The 40.3-mile segment from the Crater Lake National Park boundary to the Rogue River National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 0.5-mile segment from the Crater Lake National Park boundary to approximately 0.1-mile downstream from the forest road 6530760 (West Lake Road) crossing as a scenic river;

"(B) the 6.1-mile segment from approximately 0.1-mile downstream from the forest road 6530760 (West Lake Road) crossing to Minehaha Creek as a wild river; and

"(C) the 33.7-mile segment from Minehaha Creek to the Rogue River National Forest boundary as a scenic river.

"( ) WENAHA, OREGON.—The 21.55-mile segment from the confluence of the North Fork and the South Fork to its confluence with the Grande Ronde River; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 18.7-mile segment from the confluence of the North Fork and South Fork to the Umatilla National Forest as a wild river;

"(B) the 2.7-mile segment from the Umatilla National Forest boundary to the easternmost boundary of the Wenaha State Wildlife Area as a scenic area; and

"(C) the 0.15-mile segment from the easternmost boundary of the Wenaha State Wildlife Area to the confluence with the Grande Ronde River as a recreational river.

"( ) WEST LITTLE OWYHEE, OREGON.—The 51-mile segment from its headwaters to its confluence with Owyhee River as a wild river; to be administered by the Secretary of the Interior.

"( ) WHITE, OREGON.—The 46.5-mile segment from its headwaters to its confluence with the Deschutes River in the following classes:

"(A) The 2-mile segment from its headwaters to the section line between sections 9 and 16, township 3 south, range 9 east, as a recreational river; to be administered by the Secretary of

the Umatilla Project, where such measures are found to make water available for the benefit of fishery resources;

(3) pumping plants and related diversion, conveyance, and distribution features;

(4) works incidental to the rehabilitation or modification of existing irrigation systems necessary to accomplish a water exchange required to fulfill the purposes of this title;

(5) fish passage and protective facilities and other necessary mitigation measures;

(6) a program to monitor and regulate project operations; and

(7) a program to evaluate fishery resource mitigation measures.

SEC. 203. INTEGRATION AND OPERATION OF PROJECT.

Project facilities and features authorized by this title shall be integrated and coordinated, from an operational standpoint, into existing features of the Umatilla Project, and shall be operated in a manner consistent with Federal reclamation laws and water rights established pursuant to State law including the contract rights of water users. Prior to the initiation of project construction, the Secretary shall secure the necessary State and local permits and other authorities for the operation of project facilities, and through the conclusion of appropriate agreements with the State of Oregon, the relevant irrigation districts, and the Confederated Tribes of the Umatilla Indian Reservation provide for the monitoring and regulation of project-related water supplies for the purposes herein identified.

SEC. 204. POWER FOR PROJECT PUMPING.

The Administrator of the Bonneville Power Administration, consistent with provisions of the Columbia River Basin Fish and Wildlife Program established pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697), shall provide for project power needed to effect the water exchange with irrigation districts for purposes of mitigating anadromous fishery resources. The cost of power shall be credited to fishery restoration goals of the Columbia River Basin Fish and Wildlife Program.

SEC. 205. OPERATION AND MAINTENANCE COSTS.

Non-Federal interests shall be responsible for the cost of operating and maintaining the project, except for those costs associated with implementation of section 204 of this title, and to fulfill the purpose of mitigating losses to anadromous fisheries resources.

102 STAT. 2793

SEC. 206. INTERIM FLOW AUGMENTATION.

Appropriation authorization.

Until the facilities authorized in this title are constructed and in operation, and as an interim measure to provide flow augmentation of the Umatilla River for anadromous fishery resources, funds are authorized to be appropriated to the Secretary, through the end of fiscal year 1998, to provide for interim operation and maintenance of existing pumps or other facilities for the purpose of providing flow augmentation for anadromous fish.

SEC. 207. NON-FEDERAL COSTS.

(a) CREDIT FOR NON-FEDERAL FISHERY RESOURCE IMPROVEMENTS.—The Umatilla Basin Project authorized by this title is a Federal action to improve streamflow and fish passage conditions and shall be considered part of a comprehensive program to restore the Umatilla River basin anadromous fishery resource. Related fishery resource improvement facilities which utilize funding sources under the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (94 Stat. 2697) and programs of the State of Oregon and other entities shall be consolidated in any final calculation of required cost sharing.

lished pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697) shall be consolidated into calculations of project costs and benefits: *Provided*, That the Secretary shall not request an appropriation of funds to construct any such facilities.

SEC. 211. WATER RIGHTS.

Nothing in this title shall be construed to—

(1) impair the validity of or preempt any provision of State water law, or of any interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body or surface or ground water, whether determined by past or future interstate compacts, or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal;

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources; or

(5) affect any water rights of any Indian or Indian tribe if such rights were established by the setting aside of a reservation by treaty, Executive order, agreements, or Act of Congress.

SEC. 212. REHABILITATION AND BETTERMENT AUTHORIZATION.

For purposes of encouraging water conservation and improvements to water supply systems of the irrigation districts participating in the project authorized by this title, Stanfield and Westland Irrigation Districts shall be eligible to receive financial assistance, in an amount not to exceed $2,000,000 each, as deemed appropriate by the Secretary, under provisions of the Rehabilitation and Betterment Act of October 7, 1949 (63 Stat. 724), as amended. Conservation. 102 STAT. 2795

SEC. 213. REVIEW OF UMATILLA PROJECT OPERATIONS.

Within one year from the date of enactment of this title, the Secretary shall complete a review of current operations of the Umatilla Project, for the purpose of identifying opportunities to further mitigate losses to anadromous fishery resources. Within 90 days of the completion of this review, the Secretary shall transmit a report thereon, together with any conclusions and recommendations to improve the management of the existing project, including measures that may require additional legislation, to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The review shall include, but not be limited to the following: Reports.

(a) Contract negotiation and administration;

(b) water conservation plans and activities required by section 210 of the Reclamation Reform Act of 1982 (Public Law 97-293);

(c) allocation of reservoir storage space;

(d) water deliveries outside the authorized service area; and

(e) water rights held by the United States.

Approved October 28, 1988.

LEGISLATIVE HISTORY—S. 2148 (H.R. 4164):

HOUSE REPORTS: No. 100-1053, Pt. 1, accompanying H.R. 4164 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-570 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 7, considered and passed Senate.
Oct. 12, considered and passed House.

102 STAT. 2797 Public Law 100-559
100th Congress

An Act

Oct. 28, 1988
[S. 2545]

To redesignate Salinas National Monument in the State of New Mexico, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation. Historic preservation.

TITLE I—SALINAS NATIONAL MONUMENT

SEC. 101. SALINAS PUEBLO MISSION NATIONAL MONUMENT.

16 USC 431 note.

(a) The Salinas National Monument, as designated by section 601 of the Act of December 19, 1980 (94 Stat. 3231), is hereby redesignated as Salinas Pueblo Missions National Monument.

(b) Any reference in any record, map, or other document of the United States of America to Salinas National Monument shall hereafter be deemed to be a reference to Salinas Pueblo Missions National Monument.

TITLE II—CORONADO NATIONAL TRAIL STUDY

Coronado National Trail Study Act of 1988.
16 USC 1241 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Coronado National Trail Study Act of 1988".

SEC. 202. FINDINGS.

The Congress finds that—

(1) Francisco Vasquez de Coronado led an expedition from Compostela on the Southwest Coast of Mexico, into the American Southwest in search of the legendary Seven Cities of Cibola between 1540 and 1542;

(2) Coronado's expedition of approximately 300 Spanish soldiers and 1,000 Indian allies and servants marched through the State of Arizona, then through the States of New Mexico, Texas, Oklahoma, and Kansas;

(3) Coronado and his troops found Pueblo Indian settlements, including the Zuni villages of western New Mexico, Acoma along the Rio Grande River, as far north as Taos, and east to Pecos, as well as those of the Hopi in Arizona and Plains groups in Texas, Oklahoma, and Kansas; and

(4) members of the Coronado expedition became the first Europeans to see the Grand Canyon in Arizona, the Palo Duro Canyon in Texas, and many other Southwestern landmarks.

SEC. 203. DESIGNATION OF TRAIL.

Section 5(c) of the National Trails System Act (82 Stat. 919; 16 U.S.C. 1244(c)) is amended by adding at the end thereof the following new paragraph:

"(32) Coronado Trail, the approximate route taken by the expedition of the Spanish explorer Francisco Vasquez de Coronado between 1540 and 1542, extending through portions of the States of Arizona, New Mexico, Texas, Oklahoma, and Kansas. The study under this paragraph shall be prepared in accordance with subsection (b) of this section. In conducting the study under this paragraph, the Secretary shall provide for (A) the review of all original Spanish documentation on the Coronado Trail, (B) the continuing search for new primary documentation on the trail, and (C) the examination of all information on the archeological sites along the trail.".

102 STAT. 2798

Records.

TITLE III—NATIONAL MIMBRES CULTURE STUDY

National Mimbres Culture Study Act of 1988.

SEC. 301. SHORT TITLE.

This title may be cited as the "National Mimbres Culture Study Act of 1988".

SEC. 302. AUTHORIZATION OF STUDY.

(a) AUTHORIZATION.—The Secretary of the Interior is authorized to conduct a study of the Mimbres culture to determine its significance in illustrating and commemorating the prehistory of the Southwest. The study shall include an analysis of the significance of the culture as it relates to the Mogollon, Salado, and Casas Grandes cultures and shall include a list of appropriate sites for interpreting the culture.

(b) RECOMMENDATIONS.—The study shall include recommendations with respect to—

(1) measures for the preservation of resources associated with the Mimbres culture located in and around the vicinity of Silver City, New Mexico; and

(2) indications of types and general intensities of development, including a visitor facility with sufficient space to accommodate exhibits of Mimbres pottery and information regarding the Masau Trail, that would be associated with public enjoyment and use of the sites, including general location and anticipated costs.

(c) COMPLETION OF STUDY.—The study shall be completed and transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than one year after the date on which funds are appropriated for the study.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE IV—SPANISH COLONIZATION COMMEMORATIVE STUDY

Spanish Colonization Commemorative Act of 1988.

SEC. 401. SHORT TITLE.

This title may be cited as the "Spanish Colonization Commemorative Act of 1988".

SEC. 402. AUTHORIZATION OF STUDY.

(a) AUTHORIZATION.—The Secretary of the Interior is authorized to conduct a study of the Spanish Frontier culture and Spanish Borderlands story to determine their significance in illustrating and commemorating the Spanish colonization of the Southwest, the Spanish colonial frontier culture, and Spanish colonialism in New Mexico. The study shall include an analysis of the significance of the San Gabriel Historic Landmark and the Los Luceros Hacienda as they relate to the Spanish Borderlands story of the Southwest.

102 STAT. 2799

(b) RECOMMENDATIONS.—The study shall include recommendations with respect to—

(1) measures for the preservation and interpretation of resources associated with the Spanish colonization of the Southwest; and

(2) indications of types and general intensities of development, including the feasibility of visitor facilities, that would be associated with public enjoyment and use of the sites, including general location and anticipated costs.

(c) COMPLETION OF STUDY.—The study shall be completed and transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than two years after the date on which funds are appropriated for the study.

(2) an evaluation of historic and prehistoric resources surrounding the Warm Springs at the headwaters of Canada de Alamosa and the potential for preservation and public use.

(c) COMPLETION OF STUDY.—The study shall be completed and transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within 1 year of the date on which funds are appropriated for the study.

102 STAT. 2802

SEC. 803. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

Approved October 28, 1988.

LEGISLATIVE HISTORY—S. 2545 (H.R. 3541):

HOUSE REPORTS: No. 100-790 accompanying H.R. 3541 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-572 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, H.R. 3541 considered and passed House.
Oct. 7, S. 2545 considered and passed Senate.
Oct. 12, considered and passed House.

102 STAT. 2803

Public Law 100-560
100th Congress

An Act

Oct. 31, 1988
[H.R. 775]

To provide for the establishment of the Poverty Point National Monument, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.
Louisiana.
16 USC 431 note.

SECTION 1. ESTABLISHMENT.

(a) IN GENERAL.—In order to preserve the archaeological area known as Poverty Point, Louisiana, and to interpret and conduct further research on such area, its people and their culture, there is hereby established the Poverty Point National Monument (hereafter in this Act referred to as the "monument").

(b) AREA INCLUDED.—The monument shall consist of the lands and interests in lands within the area generally depicted on the map entitled "Boundary Map, Poverty Point National Monument", numbered PO-PT 80,000, and dated August 1988. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and at the monument. The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") may, from time to time, make minor revisions in the boundary of the monument.

16 USC 431 note.

SEC. 2. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the monument in accordance with this Act and with the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467). The Secretary is authorized to acquire personal property for the purpose of administering the monument.

Gifts and property.

(b) MANAGEMENT PLAN.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop and implement a management plan for the monument. The Secretary shall promptly submit such plan to the appropriate committees of the Congress.

TITLE VI—AZTEC RUINS NATIONAL MONUMENT

16 USC 431 note.

SEC. 601. REVISION OF BOUNDARY.

The boundary of Aztec Ruins National Monument is hereby revised to include the area generally depicted on the map entitled "Aztec Ruins, Addition, Aztec Ruins National Monument", numbered 319/80,015, and dated October 16, 1987. Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior

Public information.

SEC. 602. LAND ACQUISITION.

The Secretary of the Interior is authorized to acquire lands, interests in lands, and improvements thereon within the boundary of the national monument as amended by section 601 by donation, exchange, or purchase with donated or appropriated funds.

Gifts and property.

SEC. 603. ADMINISTRATION.

The Secretary of the Interior shall administer the Aztec Ruins National Monument in accordance with the provisions of law generally applicable to units of the National Park System including the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666).

National Park System.

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

102 STAT. 2801

TITLE VII--GEORGIA O'KEEFFE STUDY

SEC. 701. GEORGIA O'KEEFFE STUDY.

(a) In recognition of the significant impact Georgia O'Keefee had on the world of art, the Secretary of the Interior is authorized and directed to conduct a study of the most appropriate way to interpret these nationally significant contributions. The study shall include but not be limited to an evaluation of the feasibility of marking and interpreting the landscapes consisting of the scenes and physical features from which Georgia O'Keeffe drew much of her inspiration.

Art.

(b) The study shall be completed and transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within one year of the date on which funds are appropriated for the study.

SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

TITLE VIII—WARM SPRINGS STUDY

Warm Springs Study Act of 1988.

SEC. 801. SHORT TITLE.

This title may be cited as the "Warm Springs Study Act of 1988".

SEC. 802. STUDY OF WARM SPRINGS CULTURE.

(a) IN GENERAL.—The Secretary of the Interior is authorized and directed to conduct a study of the culture that evolved around Warm Springs in Southwestern, New Mexico, to determine its significance in illustrating and commemorating American frontier military history and the development of American Indian policy.

Indians.

(b) SPECIFICS OF STUDY.—The study shall include—

(1) an evaluation of the history of the people from the Warm Springs area in Victorio's War in relation to American frontier military history and the development of American Indian policy; and

(c) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with institutions of higher education and professional societies to conduct further research on Poverty Point, its people and their culture.

(d) EMPLOYMENT.—The Secretary shall utilize existing authority, to the extent practicable, to employ those persons managing the State commemorative area at Poverty Point, Louisiana.

SEC. 3. ACQUISITION OF LAND. 16 USC 431 note.

The Secretary may acquire land or interests in land within the boundaries of the monument by donation, purchase from a willing seller with donated or appropriated funds, or exchange. Lands, and interests in lands, within the boundaries of the monument which are owned by the State of Louisiana, or any political subdivision thereof, may be acquired only by donation.

102 STAT. 2804

SEC. 4. ADVISORY COMMISSION. 16 USC 431 note.

(a) ESTABLISHMENT.—(1) There is hereby established the Poverty Point National Monument Advisory Commission (hereafter in this section referred to as the "Advisory Commission"). The Advisory Commission shall be composed of 7 members appointed by the Secretary as follows:

(A) 3 members from those nominated by the Governor of Louisiana, including the State of Louisiana Historic Preservation Officer;

(B) 2 members from professional archaeologists in the archaeology community; and

(C) 2 members from the public with particular interests in Poverty Point.

(2) Members of the Advisory Commission shall be appointed for terms of 3 years. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed.

(3) The Advisory Commission shall designate one of its members as Chairperson.

(b) MANAGEMENT AND DEVELOPMENT ISSUES.—The Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission on matters relating to the management and development of the monument.

(c) MEETINGS.—The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the monument. Advisory Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement. Public information.

(d) EXPENSES.—Members of the Advisory Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairperson.

(e) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to this Advisory Commission.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS. 16 USC 431 note.

There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 775:

HOUSE REPORTS: No. 100-907 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 13, considered and passed House.
Oct. 11, considered and passed Senate.

hereby confirmed. All such revenues shall be used and applied to Strawberry Valley Reclamation Project purposes.

(2) COMPENSATION.—There is authorized to be appropriated under Section 8, of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g), $15,000,000 as compensation to the Association which shall be available only for such compensation and must be used for Strawberry Valley Reclamation Project purposes. Of the amounts appropriated hereafter under section 8 of such Act, the first $15,000,000 shall be paid to the Association. Upon receipt of such compensation, the Association shall relinquish all of its contractual surface rights and interests, including sand and gravel, in the 56,775 acres of Project Lands.

Contracts.

(3) OTHER CONSIDERATIONS.—The Association shall be entitled to retain the first right of refusal to grazing privileges on the 30,785 acres of remaining Project Lands, and if permitted under the grazing rehabilitation plan pursuant to subsection (f), on the 25,990 acres of recreation lands.

(f) REHABILITATION OF LANDS.—The Forest Service shall, in coordination with the State of Utah and other appropriate agencies begin long-term rehabilitation of Project Lands. Such rehabilitation shall be five years in duration and shall permit continued grazing uses consistent with such rehabilitation. There is authorized to be appropriated under section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g), $3,000,000 which shall be available only for such rehabilitation. The Association shall be held harmless for any costs associated with rehabilitation.

(g) INTERIM RECREATION MANAGEMENT BY FOREST SERVICE.—Until administrative jurisdiction of the 25,990 acres of recreation lands is transferred to the Secretary of Agriculture in accordance with subsection (e)(1)(B), the Congress authorizes and directs the Secretary of Agriculture to expend National Forest System appropriated funds in lieu of Department of Interior, Bureau of Reclamation funds to manage the 25,990 acres of recreation lands for the Strawberry Reservoir adjacent to the Uinta National Forest in Utah. Such expenditures shall be in accordance with the provisions of the Memorandum of Agreement (Contract No. 2-07-40-L3016) dated February 2, 1982.

102 STAT. 2829

(h) LAND EXCHANGE.—

(1) AUTHORIZATION.—The Secretary of Agriculture may exchange or sell the National Forest system lands, including any administrative sites and improvements thereon, described in subsection (h)(2). Disposal or exchange of these properties is intended to facilitate the acquisition of administrative sites and offices together with improvements thereon at either Provo, Utah County, Utah or near Heber City, Wasatch County, Utah, as specified by the Secretary of Agriculture. If the sale option is exercised, moneys collected shall be held in a special account intended for this purpose and are hereby authorized for expenditure without further appropiation.

(2) LANDS.—The lands referred to in subsection (h)(1) are those lands which are depicted on a plat, entitled Heber City, Utah, dated April 17, 1978, and May 7, 1978. The plat shall be on file and available for public inspection in the office of the Chief of the Forest Service and appropriate field offices.

Public information.

(3) REQUIREMENT OF EQUAL VALUE.—If the lands are exchanged, the values, as determined by the Secretary of Agriculture, of the lands and building to be exchanged under this section shall be equal, or if not equal, shall be equalized by the payment of money to the grantor or the Secretary of Agriculture as the circumstances require so long as the payment does not exceed 25 percent of the total value of the land (including any improvements thereon) transferred out of Federal ownership. The Secretary of Agriculture shall make every reasonable effort to keep any such payment to the minimum amount necessary to equalize the values involved.

SEC. 5. BOUNDARY CHANGE FOR JOHN MUIR NATIONAL HISTORIC SITE, CALIFORNIA. 16 USC 461 note.

(a) MAP; LAND ACQUISITION.—The Secretary of the Interior is authorized to acquire (by donation, purchase with donated or appropriated funds, or exchange) lands and interests in land within the area generally depicted on the map entitled "Boundary Map, John Muir National Historic Site" numbered 426-80,015B and dated July 1988. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. Lands and interests in lands, within the boundaries of such area which are owned by the State of California or any political subdivision thereof, may be acquired only by donation or exchange. The Secretary of the Interior shall acquire only such interests in the John Muir grave site (as depicted on the map referred to in this subsection) as may be necessary to preserve the site in its present undeveloped condition and to provide all maintenance of the site by the Secretary of the Interior. Gifts and property. Public information.

(b) INCLUSION WITHIN HISTORIC SITE.—The lands and interests in lands within the boundaries of the area depicted on the map referred to in subsection (a) shall be administered as part of the John Muir National Historic Site established by the Act of August 31, 1964 (78 Stat. 753; 16 U.S.C. 461 note).

(c) AUTHORIZATION OF APPROPRIATIONS.—For purposes of acquiring the lands and interests in lands within the area depicted on the map referred to in subsection (a), there are authorized to be appropriated such sums as may be necessary. 102 STAT. 2830

(d) COOPERATIVE AGREEMENT.—The Secretary of the Interior, acting through the Director of the National Park Service, is authorized to enter into a cooperative agreement with the East Bay Regional Park District of Oakland, California, for the operation and maintenance by such District of trails on lands within the John Muir National Historic Site.

SEC. 6. YOSEMITE NATIONAL PARK. 16 USC 79-1.

Notwithstanding any other provision of law, no Federal lands may be used for the expansion of the capacity of any reservoir which is located within the boundaries of Yosemite National Park unless Congress enacts specific statutory authorization after the date of the enactment of this Act for such expansion.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 3408:

HOUSE REPORTS: No. 100-915 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 13, considered and passed House.
Sept. 30, considered and passed Senate, amended.
Oct. 6, House concurred in Senate amendment with amendments.
Oct. 11, Senate concurred in House amendments with amendments.
Oct. 12, House concurred in Senate amendments.

Public Law 100-564
100th Congress

102 STAT. 2831

An Act

To authorize and direct the acquisition of lands for Canaveral National Seashore, and for other purposes.

Oct. 31, 1988
[H.R. 3559]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Florida.

SECTION 1. ADDITIONS TO CANAVERAL NATIONAL SEASHORE. 16 USC 459j-1 note.

(a) SEMINOLE REST AND STUCKEY'S.— 16 USC 459j-1 note.

(1) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized and directed to acquire approximately 25 acres of land in the State of Florida known as Seminole Rest and approximately 10 acres of land known as Stuckey's. Both areas are depicted on a map entitled "Additions to Canaveral National Seashore" numbered NS-CAN-40000-C and dated May 1988.

Historic preservation.

(2) The Secretary shall manage the lands known as Seminole Rest for the primary purpose of protecting and interpreting their archaeological and historic resources and the lands known as Stuckey's for the primary purpose of establishing an administrative headquarters and visitor center within Volusia County, Florida.

(b) ACQUISITION AUTHORITY.—Land acquired under this section may only be acquired in accordance with section 2 of the Act entitled "An Act to establish the Canaveral National Seashore in the State of Florida, and for other purposes" (16 U.S.C. 459j-1).

SEC. 2. AUTHORIZATION OF APPROPRIATIONS RELATING TO DEVELOPMENT OF ESSENTIAL PUBLIC FACILITIES.

Section 9(b) of the Act entitled "An Act to establish the Canaveral National Seashore in the State of Florida, and for other purposes" (16 U.S.C. 459j-8) is amended by striking out "not more than $500,000." and inserting in lieu thereof "$2.6 million in addition to the sums previously appropriated.".

16 USC 459j-1 note.

SEC. 3. MISCELLANEOUS PROVISIONS.

(a) MAP.—The Secretary shall file the map referred to in this Act with the Committee on Interior and Insular Affairs, House of Representatives, and the Committee on Energy and Natural Resources, Senate, and the map shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such map may be made. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior.

Public information.

102 STAT. 2832

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the acquisitions authorized by this Act.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 3559:

HOUSE REPORTS: No. 100-695 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-534 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 20, considered and passed House.
Oct. 11, considered and passed Senate.

102 STAT. 2847

Public Law 100-567
100th Congress

An Act

Oct. 31, 1988
[H.R. 4182]

To authorize the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Zuni-Cibola National Historical Park Establishment Act of 1988.
Historical preservation.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Zuni-Cibola National Historical Park Establishment Act of 1988".

retary pursuant to section 3 as a unit of the National Park System consistent with the provisions of this Act, and the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461), as amended.

(2) The Secretary shall protect, manage, and administer the park for the purposes of preserving the historical, archeological, natural, scientific, cultural, and other resources and values of the park and providing for the public understanding and enjoyment of the same in such a manner as to perpetuate these resources and values for future generations.

(3) In implementing this Act, the Secretary shall cooperate with the Zuni Tribe.

(b) JURISDICTION.—The Secretary is authorized to accept concurrent jurisdiction from the Zuni Tribe for the purpose of law enforcement.

(c) CONSULTATION.—The Secretary, acting through the Director of the National Park Service, shall consult regularly with the Commission established pursuant to section 6 of this Act. The Commission shall advise the Secretary on the management and operation of the park.

(d) FEES.—All enrolled members of the Zuni Tribe shall be exempt from the payment of fees for admission into the park.

Contracts.

(e) TRAINING.—In furtherance of the purposes specified in subsection (a)(2), and after consultation with the Advisory Commission established by section 6, the Secretary is authorized to enter into cooperative agreements with the Zuni Tribe, its subordinate boards, committees and enterprises, and individual members of the Zuni

102 STAT. 2849

Tribe for the purpose of providing training of Zuni tribal members on the interpretation, management, protection, and preservation of archaeological and historical properties and in the provision of public services on the Zuni Indian Reservation needed for the fulfillment of the purposes specified in subsection (a)(2).

(f) PREFERENCE.—To the extent feasible, the Secretary shall exercise existing authorities so as to give preference to employing qualified members of the Zuni Tribe in the development, interpretation, and management of the park and in carrying out other activities related to the park.

16 USC 410pp-3.

SEC. 5. FEDERAL CONSISTENCY.

(a) FEDERAL ACTIONS.—The head of any Federal agency conducting or supporting activities directly or indirectly affecting the park shall—

(1) consult with, cooperate with, and, to the maximum extent practicable, coordinate its activities with the Secretary and with the Advisory Commission; and

(2) conduct or support such activities in a manner which—

(A) to the maximum extent practicable is consistent with the standards and criteria established pursuant to the plan required in section 7 of this Act, and

(B) will not have a significant adverse effect on the resources or values of the park, as determined by the Secretary.

(b) PERMITS.—No Federal agency may issue any license or permit to any person to conduct any activity within the park or which could affect the resources or values of the park unless the Secretary determines that any such proposed activity within the park will be conducted in a manner consistent with the standards and criteria established pursuant to the plan required in section 7 of this Act and wherever occurring will not have a significant adverse effect on the resources or values of the park.

(c) LIMITATION.—The provisions of this section shall apply only with respect to activities begun and licenses or permits issued after the date of enactment of this Act.

SEC. 6. ESTABLISHMENT OF ZUNI-CIBOLA ADVISORY COMMISSION. 16 USC 410pp-4.

(a) ESTABLISHMENT.—(1) There is established within the Department of the Interior a commission to be known as the Zuni-Cibola National Historical Park Advisory Commission which shall advise regularly the Director of the National Park Service on the planning, management, and administration of the park. The Advisory Commission shall consist of the Governor of the Zuni Tribe, the Director of the National Park Service, the Secretary of the Smithsonian Institution, the State Historic Preservation Officer of New Mexico (or their designees), and three members appointed by the Secretary from recommendations made by the Governor of the Zuni Tribe.

(2) The Advisory Commission is authorized to employ an administrative director who shall be appointed by the Advisory Commission and who shall be paid at a rate not to exceed the rate of pay payable for grade GS-12 of the General Schedule.

(3) The administrative director of the Advisory Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the individual so appointed may not receive pay in excess of the annual rate of basic pay payable for grade GS-12 of the General Schedule. 102 STAT. 2850

(4) The Administrator of the General Services Administration shall provide to the Advisory Commission on a reimbursable basis such administrative support services as the Advisory Commission may request.

(b) TERMS.—The initial terms of members of the Advisory Commission appointed by the Secretary pursuant to subsection (a) shall be staggered, as determined by the Secretary, in order to assure continuity in the administration of the Advisory Commission. Thereafter the term shall be four years. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of such member's term until a successor is appointed. A vacancy in the Advisory Commission shall be filled in the manner in which the original appointment was made. The advisory Commission shall exist for the duration of a leasehold accepted by the Secretary pursuant to section 3, and any extensions or renewals thereof.

(c) EXPENSES.—The non-Federal members of the Advisory Commission appointed pursuant to subsection (a) while away from their homes or regular places of business in the performance of services for the Advisory Commission, shall be allowed travel and all other related expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(d) CHAIR.—The Governor of the Zuni Tribe shall be the Chair of the Advisory Commission. Other officers of the Advisory Commission shall be elected by a majority of the members of the Advisory Commission to serve for terms established by the Advisory Commission.

(e) MEETINGS.—The Advisory Commission shall meet at the call of the Chair or a majority of its members. Consistent with the public meeting requirements of the Federal Advisory Committee Act, the Advisory Commission shall from time to time meet with persons concerned with park issues relating to the Zuni Tribe. Public information.

(f) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—Except with respect to any requirement for reissuance of a charter and except as otherwise provided in this Act, the provisions of the Federal Advisory Committee Act shall apply to the Advisory Commission established by this section.

(2) the term "park" means lands constituting a Zuni-Cibola National Historical Park established under section 2; 102 STAT. 2852

(3) the term "park plan" means the general management plan developed pursuant to section 7; and

(4) the term "Secretary" means the Secretary of the Interior.

SEC. 10. ADDITION TO MASAU TRAIL.

16 USC 460uu-12.

The first sentence of section 202 of the Act of December 31, 1987 (Public Law 100-225; 101 Stat. 1540) is amended by striking out "and Gila Cliff Dwelling National Monument." and inserting in lieu thereof "Gila Cliff Dwellings National Monument, and Zuni-Cibola National Historical Park.".

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

16 USC 410pp-8.

There are authorized to be appropriated such sums as may be necessary for the purposes of this Act.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 4182 (S. 2162):

HOUSE REPORTS: No. 100-942 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-354 accompanying S. 2162 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 20, considered and passed House. S. 2162 considered and passed Senate.
Oct. 11, H.R. 4182 considered and passed Senate, amended.
Oct. 12, House concurred in Senate amendment.

Public Law 100-571
100th Congress

102 STAT. 2879

An Act

To establish the National Park of American Samoa.

Oct. 31, 1988
[H.R. 4818]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.
Environmental protection.
Forests and forest products.
Historic preservation.
Wildlife.
16 USC 410qq.

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that:

(1) Tropical forests are declining worldwide.

(2) Tropical forests contain 50 percent of the world's plant and animal species, contribute significantly to the advancement of science, medicine, and agriculture and produce much of the earth's oxygen. The loss of these forests leads to the extinction of species, lessening the world's biological diversity, reduces the potential for new medicines and crops and increases carbon dioxide levels in the atomosphere contributing to the greenhouse effect that is altering the global climate.

(3) The tropical forest of American Samoa is one of the last remaining undisturbed paleotropical forests.

(4) The tropical forest in American Samoa is the largest such forest under direct control of the United States.

(5) The tropical forest of American Samoa contains the habitat of one of the last remaining populations of Pacific flying foxes.

(6) The flying foxes of American Samoa are responsible for a large part of the pollination which maintains a significant portion of the species which inhabit the Samoan tropical forest.

(7) Information presently available indicates the existence of extensive archaeological evidence related to the development of the Samoan culture which needs to be examined and protected.

(8) The people of American Samoa have expressed a desire to have a portion of the tropical forest protected as a unit of the National Park System.

(b) PURPOSE.—The purpose of this Act is to preserve and protect the tropical forest and archaeological and cultural resources of American Samoa, and of associated reefs, to maintain the habitat of flying foxes, preserve the ecological balance of the Samoan tropical forest, and, consistent with the preservation of these resources, to provide for the enjoyment of the unique resources of the Samoan tropical forest by visitors from around the world.

16 USC 410qq-1.

SEC. 2. ESTABLISHMENT.

(a) IN GENERAL.—In order to carry out the purposes expressed in section 1(b), the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall establish the National Park of American Samoa (hereinafter in this Act referred to as the "park"). The Secretary shall establish the park only when the Governor of American Samoa has entered into a lease with the Secretary under which the Secretary will lease for a period of 50 years the lands and waters generally referred to in subsection (b) for use solely for purposes of the park. Immediately after enactment of the Act, the Secretary shall commence negotiations with the Governor of American Samoa respecting such a lease agreement. On or before the expiration of the lease agreement as set forth in this subsection, the Governor of American Samoa is encouraged to extend the lease to maintain the area as a unit of the National Park System. At such time as the lease may terminate the Government of American Samoa is urged to provide assurances to the Secretary that the lands and waters generally referred to in subsection (b) will be protected and preserved to the same standards as are applicable to national parks.

Contracts.

102 STAT. 2880

(b) AREA INCLUDED.—The park shall consist of three units as generally depicted on the following maps entitled "Boundary Map, National Park of American Samoa": (1) map number NP-AS 80,000A, dated August 1988, (2) map number NP-AS 80,000B, dated August 1988, and (3) map number NP-AS 80,000C, dated August 1988. Before publication of the maps, the Secretary, after consultation with the Governor of American Samoa and other appropriate leaders, may adjust the boundaries of the park to correspond with the appropriate village boundaries and modify the maps accordingly. The maps shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary may at any time make revisions of the boundary of the park in accordance with section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 and following), pursuant to agreement with the Governor of American Samoa, and contingent upon the lease to the Secretary of lands within the new boundaries.

Public information.

Contracts.

(c) MANAGEMENT BY AMERICAN SAMOA.—Notwithstanding section 3(a), after 50 years after the enactment of this Act, the Secretary shall, if requested by the Governor of American Samoa, enter into an extension of the lease referred to in subsection (a). If the Governor does not request such an extension the Secretary shall transfer to the Governor the sole authority to administer the park. Whenever the Secretary makes such a transfer he shall also transfer any improvements constructed by the Secretary in the park to the Governor without compensation.

(d) COMPENSATION UNDER LEASE AGREEMENT.—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to negotiate with the Governor of American Samoa the amount of the payments to be made by the United States under the 50-year lease referred to in subsection (a). The Secretary shall make such payments as may be mutually agreed to by the Secretary and the Governor pursuant to such negotiations.

(2) The Secretary shall place all lease payments made by the United States under the lease in an interest bearing escrow account

102 STAT. 2826 Public Law 100-563
100th Congress

An Act

Oct. 31, 1988
[H.R. 3408]

To authorize additional appropriations for the Central Utah Project, to implement a settlement with the Strawberry Water Users, to expand the John Muir Historic Site, to prohibit the expansion of any reservoir within the boundaries of Yosemite National Park, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

43 USC 620k note.

SECTION 1. AUTHORIZATION OF ADDITIONAL AMOUNTS FOR THE COLORADO RIVER STORAGE PROJECT.

In order to provide for the continued construction of the Colorado River Storage Project, and for the continued construction of the municipal and industrial water features of the Bonneville Unit of the Central Utah Project, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), is hereby further increased by $45,456,000 plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved. This additional sum shall be available solely for continuing construction of the previously authorized units and projects named in such Act of August 10, 1972.

SEC. 2. ENVIRONMENTAL IMPACT STATEMENT FOR IRRIGATION AND DRAINAGE SYSTEM.

Not later than December 31, 1989, the Secretary shall complete an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) for the Irrigation and Drainage System of the Bonneville Unit of the Central Utah Project and submit such statement to the Congress.

SEC. 3. FISH AND WILDLIFE MITIGATION AND RECREATION.

Of the amounts appropriated for fiscal year 1990 for the construction of the Colorado River Storage Project, including funds previously authorized for fiscal year 1989, such funds in the manner previously scheduled by the Upper Colorado River Basin Office, Bureau of Reclamation, shall be available only for fish and wildlife mitigation and recreation in accordance with the schedule contained in the report of the Committee on Interior and Insular Affairs accompanying this Act (H. Rept. 100-915).

SEC. 4. STRAWBERRY VALLEY LAND COMPENSATION AND EXCHANGE.

(a) PURPOSES.—The purposes of this section are—

(1) to modify the boundary of the Uinta National Forest to include certain Strawberry Valley Project lands currently administered by the Bureau of Reclamation, in order to provide more efficient management for public benefit;

102 STAT. 2827

(2) to transfer certain lands, and to compensate the Association for the loss of certain contractual surface rights and interests; and

(3) to provide for rehabilitation of certain of those lands to be administered by the Forest Service for public benefit.

(b) DEFINITIONS.—For the purposes of this section—

(1) the term "Association" means the Strawberry Water Users Association,

(2) the term "Secretary" means the Secretary of the Interior, and

(3) the term "Project Lands" means approximately 56,870 acres of Strawberry Valley Project Lands and includes 95 acres to be transferred to the Association, 25,990 acres of recreation lands associated with the Bonneville Unit of the Central Utah

Project, and 30,785 acres of remaining Strawberry Valley Project Lands.

(c) BOUNDARY MODIFICATION OF UINTA NATIONAL FOREST.—

(1) The exterior boundary of the Uinta National Forest shall be modified to include 56,775 acres of the original 56,870 acres of Strawberry Valley Project lands as generally depicted on a map entitled "Boundary Modification, Uinta National Forest", and dated May 1988. The effective date of such modification shall be the date upon which administrative jurisdiction is transferred to the Secretary of Agriculture in accordance with subsection (e)(1)(B). Those lands encompassed by the modified boundary include 25,990 acres of recreation lands associated with the Bonneville Unit of the Central Utah Project and 30,785 acres of remaining Project Lands. Such lands shall be administered by the Forest Service in accordance with applicable laws except that the 25,990 acres shall continue to be managed by the Forest Service as recreation lands in accordance with the purposes set forth in the Memorandum of Agreement between the Department of the Interior, Bureau of Reclamation, Upper Colorado Region, and the United States Forest Service (Contract No. 2-07-40-L3016) dated February 2, 1982.

(2) A map depicting the modified boundary of the Uinta National Forest shall be on file and available for public inspection in the office of the Chief of the Forest Service and appropriate field offices and the House Interior and Insular Affairs Committee and the Senate Energy and Natural Resources Committee. Public information.

(d) VALID EXISTING RIGHTS.—

(1) Notwithstanding any other provision of this section, the administration by the Forest Service of the lands described in subsection (c) shall not—

(A) affect or interfere with the authority of the Bureau of Reclamation to construct, operate, maintain, replace, or improve, as necessary, project facilities and access thereto associated with the Strawberry Valley Reclamation Project and Bonneville Unit of the Central Utah Project; or

(B) diminish any other authorized uses of the lands for water resource and power development under Federal law.

(2) The association shall relinquish all of its contractual surface rights and interests, including sand and gravel, in the 56,775 acres of the Project Lands in accordance with subsection (e)(2). Notwithstanding any other provision of this section, all other contractual rights and interests of the Association in the Strawberry Valley Reclamation Project shall remain unchanged. The Association shall be exempt from fees or charges for licenses or permits, other than grazing fees, for project related facilities on Project Lands. 102 STAT. 2828

(e) STRAWBERRY VALLEY LAND TRANSFERS, AND OTHER CONSIDERATIONS.—

(1)(A) The Secretary is hereby authorized and directed to convey to the Association 95 acres in fee title of Project Lands, together with all improvements, as shown on a plat appended to the map referred to in subsection (c)(1). This action is consistent with the intent of the Act of April 4, 1910 (chapter 140, 36 Stat. 269).

(B) Within 15 days of payment of compensation to the Association in accordance with subsection (e)(2), the Secretary shall transfer administrative jurisdiction to the Secretary of Agriculture over the 30,785 acres of remaining Project Lands and the 25,990 acres of recreation lands. Management of the surface shall be subject to applicable law.

(C) Notwithstanding any other provision of this section, the association shall retain its contractual rights to issue oil, gas, coal and mineral leases, excluding sand and gravel, on the Project Lands. The authority of the Association to issue such leases and to utilize revenues therefrom as set forth in Interior Solicitor's opinion M-36863 dated August 8, 1972 (79 I.D. 513) is Contracts.

SEC. 2. ESTABLISHMENT OF PARK.

16 USC 410pp note. Contracts. 16 USC 410pp.

(a) ESTABLISHMENT.—In order to preserve and protect for the benefit of present and future generations certain nationally significant historical, archeological, cultural, and natural sites and resources associated with the Zuni Tribe, and in order to assist members of the Zuni Tribe in preserving and interpreting their tribal culture, there is hereby established the Zuni-Cibola National Historical Park. The park shall consist of lands with respect to which the Secretary of the Interior has accepted a leasehold pursuant to section 3 of this Act.

(b) EFFECTIVE DATE.—This section shall take effect on the date of publication by the Secretary, pursuant to section 3 of this Act, of a notice that the Secretary has accepted a leasehold interest that meets the requirements of this Act.

(c) TERMINATION.—This section shall terminate and shall be ineffective 24 months after the date of enactment of this Act unless prior to the end of such 24-month period the Secretary has published a notice of acceptance of a leasehold pursuant to section 3 of this Act.

SEC. 3. ACQUISITION OF LEASEHOLD.

16 USC 410pp-1.

(a) AUTHORITY OF SECRETARY.—If, no later than 18 months after the date of enactment of this Act, the Zuni Tribe, after consultation with the Bureau of Indian Affairs, offers to the Secretary a leasehold interest in trust lands of the Zuni Indian Reservation, in New Mexico, meeting the requirements of this Act, the Secretary is authorized and directed to accept such leasehold on behalf of the National Park Service and to publish in the Federal Register a notice of such acceptance.

Federal Register, publication.

(b) REQUIREMENTS.—The Secretary shall accept a leasehold under subsection (a) of this section if such leasehold—

(1) would continue for a period of at least 99 years;

(2) would require no rentals or other payments by the United States to the Zuni Tribe or any other party;

(3) would be applicable to no more than 800 acres of lands within the Zuni Indian Reservation that the Director of the National Park Service, after consultation with the Zuni Tribe and the Bureau of Indian Affairs, has determined to be necessary and adequate to carry out the purposes specified in section 4(a) of this Act; and

102 STAT. 2848

(4) would not be inconsistent with any of the provisions of this Act.

(c) MAP.—As soon as possible after publication of a notice of acceptance pursuant to subsection (a) of this section, the Secretary shall prepare a map of the park and shall provide copies of such map to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate.

(d) BOUNDARY ADJUSTMENTS.—The Secretary, after consultation with the Advisory Commission and with the agreement of the Zuni Tribe, may make minor revisions in the boundary of the park. Prior to making any such revision, the Secretary shall provide notice of the proposed change in the boundary to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources and Select Committee on Indian Affairs of the Senate. No such revision shall take effect sooner than 60 days after such notice has been provided to such Committees. After the effective date of any such revision, the Secretary shall prepare a revised map of the park, copies of which shall be provided to such Committees.

SEC. 4. MANAGEMENT.

16 USC 410pp-2.

(a) PURPOSES.—(1) The Secretary, acting through the Director of the National Park Service, and in consultation with the Advisory Commission established pursuant to section 6 of this Act, shall manage the lands covered by any leasehold accepted by the Sec-

National Park System.

16 USC 410pp-5.

SEC. 7. PARK PLAN.

(a) DEADLINE.—No later than 3 years after the date of the publication of a notice pursuant to section 3(a), the Secretary, acting through the Director of the National Park Service and in consultation with the Advisory Commission, shall develop and transmit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate, a general management plan for the park which shall describe the appropriate uses and development of the park consistent with the purposes of this Act.

(b) ELEMENTS.—The park plan shall include (but not be limited to) the following:

102 STAT. 2851

(1) Plans for implementation of a continuing program of interpretation and visitor education about the resources and values of the park.

(2) Proposals for visitor use facilities to be developed for the park.

(3) Plans for management of the natural and cultural resources of the park in order to carry out the purposes specified in section 4(a)(2) of this Act, with particular emphasis on the preservation and long-term scientific use of archeological resources, giving high priority to the enforcement of the provisions of the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the park. The natural and cultural resources management plans shall be prepared in close consultation with the New Mexico State Historic Preservation Office and the Zuni Tribe and their traditional cultural and religious authorities.

(4) Proposals for training members of the Zuni Tribe in such fields as interpretation, management, and artifact curation.

(5) A plan to implement the provisions of section 8 of this Act so as to ensure the protection of the right of the Zuni people to practice traditional Zuni religious activities within the park boundaries in a manner consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996).

(6) Proposals for cooperative research and interpretive programs within the park to be carried out by the Zuni Tribe through its archeology program, with technical assistance from the National Park Service.

(7) Proposals for implementing the provisions of this Act relating to the operation and supply of park concessions by qualified Zuni-owned businesses.

16 USC 410pp-6.

SEC. 8. CULTURAL AND RELIGIOUS USES.

In furtherance of the American Indian Religious Freedom Act, the Secretary, upon the request of an appropriate official of the Zuni Tribe, may, from time to time, temporarily close to general public use one or more specific portions of the park in order to protect the privacy of religious activities in such areas by Indian people. Any such closure shall be made so as to affect the smallest practicable area for the minimum period necessary for such purposes. Not later than 7 days after the first day on which any such closure takes effect, the Secretary shall provide written notification of such action to the Energy and Natural Resources Committee and Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

16 USC 410pp-7.

SEC. 9. DEFINITIONS.

As used in this Act—

(1) the term "Advisory Commission" means the Zuni-Cibola National Historical Park Advisory Commission established under section 6;

102 STAT. 2882

(f) MANAGEMENT PLAN.—The Secretary, in cooperation with the Governor of American Samoa, shall prepare a general management plan for the park. The plan shall comply with section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a-1 through 1a-7) and shall contain specific measures for the protection and preservation of tropical forest resources and archaeological and cultural resources within the park, including, but not limited to, protection of flying foxes and measures to enhance visitation to the park from throughout the world, to the extent consistent with the protection and preservation of such resources.

(g) ADVISORY BOARD.—(1) The Secretary shall establish an Advisory Board to provide advice to the Secretary regarding the management of the park. The Advisory Board shall be comprised of 5 members, 3 of whom shall be nominated by the Governor of American Samoa. The Advisory Board shall designate one of its members as Chairman.

(2) The Advisory Board shall meet on a regular basis. Notice of meetings and agenda shall be announced in advance and meetings shall be held at locations and in such a manner as to insure adequate public involvement.

(3) Members of the Advisory Board shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

(4) The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to this Advisory Board.

(h) REVIEW.—At least every 10 years, the Secretary and the Governor, or their designees, shall review the operation and management of the park. Such review shall include, but need not be limited to, consideration of how the objectives of the park can better be achieved, the need for additional technical or other assistance, cooperative arrangements between the Government of American Samoa and the National Park Service in the interpretation and management of the park, and the desirability of extension of the lease arrangement.

(i) TECHNICAL ASSISTANCE.—The Secretary, in providing technical or other assistance to the Government of American Samoa may use any authority otherwise provided to him, including requesting assistance from other Federal agencies.

16 USC 410qq-3.

SEC. 4. DEFINITION.

For purposes of this Act the term "native American Samoan" means a person who is a citizen or national of the United States and who is a lineal descendant of an inhabitant of the Samoan Islands on April 18, 1900. For purposes of this Act, Swains Island shall be considered part of the Samoan Islands.

16 USC 410qq-4.

102 STAT. 2883

SEC. 5. FUNDING.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 4818:

HOUSE REPORTS: No. 100-916 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 13, considered and passed House.
Oct. 12, considered and passed Senate.

Public Law 100-573
100th Congress

102 STAT. 2890

An Act

To establish the Delaware Water Gap National Recreation Area Citizen Advisory Commission.

Oct. 31, 1988
[H.R. 5001]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF COMMISSION.

16 USC 460o note.

There is established a commission to be known as the "Delaware Water Gap National Recreation Area Citizen Advisory Commission" (hereafter in this Act referred to as the "Commission"). The Commission shall advise the Secretary of the Interior on matters pertaining to the management and operation of the Delaware Water Gap National Recreation Area, as well as on other matters affecting the recreation area and its surrounding communities.

SEC. 2. MEMBERSHIP OF COMMISSION.

16 USC 460o note.
New Jersey.
Pennsylvania.

(a) APPOINTMENT.—The Commission shall be composed of the following 11 members appointed not later than 60 days after the date of the enactment of this Act from among persons with knowledge of the recreation area:

(1) 2 members appointed by the Secretary of the Interior (hereafter in this Act referred to as the "Secretary").

(2) 2 members appointed by the Secretary from among residents of New Jersey nominated by the Governor of New Jersey.

(3) 2 members appointed by the Secretary from among residents of Pennsylvania nominated by the Governor of Pennsylvania.

(4) 1 member appointed by the Secretary from among the residents of each of the following counties nominated by the county administrator of each such county: Sussex County, New Jersey, Warren County, New Jersey, Pike County, Pennsylvania, Monroe County, Pennsylvania, and Northampton County, Pennsylvania.

The Secretary shall ensure that the membership of the Commission is fairly balanced in terms of the points of view represented and the functions to be performed by the Commission.

(b) TERMS.—Members shall be appointed to the Commission for a term of 4 years. A member may serve after the expiration of his term until his successor has taken office.

(c) VACANCIES.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(d) PROHIBITION OF ADDITIONAL PAY.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this ~~Act on vou~~chers signed by the Chairperson.

(e) CHAIRPERSON.—The Commission shall elect a chairperson from among the members of the Commission.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

102 STAT. 2891

(g) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(h) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to this Advisory Commission.

SEC. 3. POWERS OF COMMISSION.

16 USC 460o note.

(a) HEARINGS.—The Commission may, for the purpose of carrying out its functions under section 1, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

in American Samoa. Funds in such account may be disbursed only by the Governor, in amounts determined by the High Court of American Samoa, to those villages and families located within the boundaries of the park. The High Court of American Samoa shall have exclusive jurisdiction to determine the amount to be disbursed under this section to any person.

(3) If the amount of the lease payments to be made under the lease is not agreed upon within 1 year after the enactment of this Act, the Secretary shall establish the escrow account referred to in paragraph (2) within 30 days after the expiration of such 1-year period and shall make monthly payments of $25,000 per month into the account until such time as the full value of the lease payments is agreed to and deposited. Such deposits, together with the interest thereon, may be used only to cover the amounts of the lease payments due and payable pursuant to an agreement under this subsection. If the amounts deposited in such account, together with interest thereon, exceeds the amount of the lease payments due and payable at the time the agreement is entered into, notwithstanding any other provision of law, the excess shall be transferred to the accounts provided to the Secretary for operation and maintenance and for development of the park.

102 STAT. 2881

SEC. 3. ADMINISTRATION.

16 USC 410qq-2.

(a) IN GENERAL.—The Secretary shall administer the park in accordance with this Act and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4). In the administration of the park, the Secretary may utilize such statutory authority available to him for the conservation of wildlife and natural and cultural resources as he deems necessary to carry out the purposes of this Act, except that he may not acquire any lands or waters or interests therein for purposes of the park other than by lease.

(b) TRADITIONAL SUBSISTENCE USES.—(1) Agricultural, cultural, and gathering uses shall be permitted in the park for subsistence purposes if such uses are generally prior existing uses conducted in areas used for such purposes as of the date of enactment of this Act and if such uses are conducted in the traditional manner and by traditional methods. No such uses shall be permitted in the park for other than subsistence purposes.

(2) Subsistence uses of the marine areas of the park shall also be permitted in accordance with paragraph (1), and no fishing or gathering shall be permitted in such marine areas for other than subsistence purposes.

Fish and fishing.

(c) INTERPRETIVE FACILITIES, ETC.—Interpretative activities and interpretative facilities for the park (including maps) shall be in at least the following languages: English and Samoan.

(d) EMPLOYEES AND CONTRACTS.—In addition to the Secretary's authority to employ persons to carry out provisions of this Act in accordance with the civil service laws, and notwithstanding any other provision of law, the Secretary is authorized to—

(1) hire employees for such purposes who shall not be subject to the civil service laws, including quotas, and

(2) enter into contracts with individuals for purposes of exercising any authority of the Secretary within the park.

(e) NATIVE AMERICAN SAMOAN PERSONNEL.—The Secretary shall establish a program to train native American Samoan personnel to function as professional park service employees, to provide services to visitors (including the interpretation of park resources), and operate and maintain park facilities. Notwithstanding any other provision of law, and to the extent practicable the Secretary shall extend a preference for the hiring of native American Samoans to carry out the Secretary's authorities under this Act (including both employees and persons operating under contract).

(b) MEETINGS WITH SECRETARY OF THE INTERIOR.—Members of the Commission shall meet with the Secretary of the Interior or his designee at least once every 6 months. Such meetings shall be open to the public and shall be held at such times and in such places as to encourage public participation. The Commission shall provide the public with adequate notice of such meetings.

Public information.

(c) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operation.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—Upon request of the chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head make any of the facilities and services of such agency or instrumentality available to the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

16 USC 460o note.

SEC. 4. REPORTS.

The Commission each year shall transmit to the Secretary of the Interior and to each House of the Congress a report containing a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

16 USC 460o note.

SEC. 5. TERMINATION OF COMMISSION.

The Commission shall terminate on the date that is 10 years after the date of the enactment of this Act.

16 USC 460o note.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 5001:

HOUSE REPORTS: No. 100-975 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 14, considered and passed Senate.

102 STAT. 2924 Public Law 100-580
100th Congress

An Act

Oct. 31, 1988
[S. 2723]

To partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians, to clarify the use of tribal timber proceeds, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Hoopa-Yurok Settlement Act.
25 USC 1300i.

SECTION 1. SHORT TITLE AND DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "Hoopa-Yurok Settlement Act".

(b) DEFINITIONS.—For the purposes of this Act, the term—

(1) "Escrow funds" means the moneys derived from the joint reservation which are held in trust by the Secretary in the accounts entitled—

(A) "Proceeds of Labor-Hoopa Valley Indians-California 70 percent Fund, account number J52-561-7197";

(B) "Proceeds of Labor-Hoopa Valley Indians-California 30 percent Fund, account number J52-561-7236";

(C) "Proceeds of Klamath River Reservation, California, account number J52-562-7056";

(D) "Proceeds of Labor-Yurok Indians of Lower Klamath River, California, account number J52-562-7153";

(E) "Proceeds of Labor-Yurok Indians of Upper Klamath River, California, account number J52-562-7154";

(F) "Proceeds of Labor-Hoopa Reservation for Hoopa Valley and Yurok Tribes, account number J52-575-7256"; and

(G) "Klamath River Fisheries, account number 5628000001";

(2) "Hoopa Indian blood" means that degree of ancestry derived from an Indian of the Hunstang, Hupa, Miskut, Redwood, Saiaz, Sermalton, Tish-Tang-Atan, South Fork, or Grouse Creek Bands of Indians;

(3) "Hoopa Valley Reservation" means the reservation described in section 2(b) of this Act;

(4) "Hoopa Valley Tribe" means the Hoopa Valley Tribe, organized under the constitution and amendments approved by the Secretary on November 20, 1933, September 4, 1952, August 9, 1963, and August 18, 1972;

(5) "Indian of the Reservation" shall mean any person who meets the criteria to qualify as an Indian of the Reservation as established by the United States Court of Claims in its March 31, 1982, May 17, 1987, and March 1, 1988, decisions in the case of Jesse Short et al. v. United States, (Cl. Ct. No. 102-63);

(6) "Joint reservation" means the area of land defined as the Hoopa Valley Reservation in section 2(b) and the Yurok Reservation in section 2(c) of this Act.

102 STAT. 2925

(7) "Karuk Tribe" means the Karuk Tribe of California, organized under its constitution on April 6, 1985;

(8) "Secretary" means the Secretary of the Interior;

(9) "Settlement Fund" means the Hoopa-Yurok Settlement Fund established pursuant to section 4;

(10) "Settlement Roll" means the final roll prepared and published in the Federal Register by the Secretary pursuant to section 5;

(11) "Short cases" means the cases entitled Jesse Short et al. v. United States, (Cl. Ct. No. 102-63); Charlene Ackley v. United States, (Cl. Ct. No. 460-78); Bret Aanstadt v. United States, (Cl. Ct. No. 146-85L); and Norman Giffen v. United States, (Cl. Ct. No. 746-85L);

(12) "Short plaintiffs" means named plaintiffs in the Short cases;

(13) "trust land" means an interest in land the title to which is held in trust by the United States for an Indian or Indian tribe, or by an Indian or Indian tribe subject to a restriction by the United States against alienation;

(14) "unallotted trust land, property, resources or rights" means those lands, property, resources, or rights reserved for Indian purposes which have not been allotted to individuals under an allotment Act;

(15) "Yurok Reservation" means the reservation described in section 2(c) of this Act; and

(16) "Yurok Tribe" means the Indian tribe which is recognized and authorized to be organized pursuant to section 9 of this Act.

SEC. 2. RESERVATIONS; PARTITION AND ADDITIONS.

25 USC 1300i-1.

(a) PARTITION OF THE JOINT RESERVATION.—(1) Effective with the publication in the Federal Register of the Hoopa tribal resolution as provided in paragraph (2), the joint reservation shall be partitioned as provided in subsections (b) and (c).

(2)(A) The partition of the joint reservation as provided in this subsection, and the ratification and confirmation as provided by section 8, shall not become effective unless, within 60 days after the date of the enactment of this Act, the Hoopa Valley Tribe shall adopt, and transmit to the Secretary, a tribal resolution:

(i) waiving any claim such tribe may have against the United States arising out of the provisions of this Act, and

(ii) affirming tribal consent to the contribution of Hoopa Escrow monies to the Settlement Fund, and for their use as payments to the Yurok Tribe, and to individual Yuroks, as provided in this Act.

Federal Register, publication.

(B) The Secretary, after determining the validity of the resolution transmitted pursuant to subparagraph (A), shall cause such resolution to be printed in the Federal Register.

(b) HOOPA VALLEY RESERVATION.—Effective with the partition of the joint reservation as provided in subsection (a), the area of land known as the "square" (defined as the Hoopa Valley Reservation established under section 2 of the Act of April 8, 1864 (13 Stat. 40), the Executive Order of June 23, 1876, and Executive Order 1480 of February 17, 1912) shall thereafter be recognized and established as the Hoopa Valley Reservation. The unallotted trust land and assets of the Hoopa Valley Reservation shall thereafter be held in trust by the United States for the benefit of the Hoopa Valley Tribe.

102 STAT. 2926

(c) YUROK RESERVATION.—(1) Effective with the partition of the joint reservation as provided in subsection (a), the area of land known as the "extension" (defined as the reservation extension under the Executive Order of October 16, 1891, but excluding the Resighini Rancheria) shall thereafter be recognized and established as the Yurok Reservation. The unallotted trust land and assets of the Yurok Reservation shall thereafter be held in trust by the United States for the benefit of the Yurok Tribe.

National Forest System.

(2) Subject to all valid existing rights and subject to the adoption of a resolution of the Interim Council of the Yurok Tribe as provided in section 9(d)(2), all right, title, and interest of the United States—

(A) to all national forest system lands within the Yurok Reservation, and

(B) to that portion of the Yurok Experimental Forest described as Township 14 N., Range 1 E., Section 28, Lot 6: that portion of Lot 6 east of U.S. Highway 101 and west of the Yurok Experimental Forest, comprising 14 acres more or less and including all permanent structures thereon, shall thereafter be held in trust by the United States for the benefit of the Yurok Tribe and shall be part of the Yurok Reservation.

(3)(A) Pursuant to the authority of sections 5 and 7 of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 465, 467), the Secretary may acquire from willing sellers lands or interests in land, including rights-of-way for access to trust lands, for the Yurok Tribe or its members, and such lands may be declared to be part of the Yurok Reservation.

(B) From amounts authorized to be appropriated by the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), the Secretary shall use not less than $5,000,000 for the purpose of acquiring lands or interests in lands pursuant to subparagraph (A). No lands or interests in lands may be acquired outside the Yurok Reservation with such funds except lands adjacent to and contiguous with the Yurok Reservation or for purposes of exchange for lands within the reservation.

(4) The—

(A) apportionment of funds to the Yurok Tribe as provided in sections 4 and 7;

(B) the land transfers pursuant to paragraph (2);

(C) the land acquisition authorities in paragraph (3); and

(D) the organizational authorities of section 9 shall not be effective unless and until the Interim Council of the Yurok Tribe has adopted a resolution waiving any claim such tribe

may have against the United States arising out of the provisions of this Act.

(d) BOUNDARY CLARIFICATIONS OR CORRECTIONS.—(1) The boundary between the Hoopa Valley Reservation and the Yurok Reservation, after the partition of the joint reservation as provided in this section, shall be the line established by the Bissel-Smith survey. 102 STAT. 2927

(2) Upon the partition of the joint reservation as provided in this section, the Secretary shall publish a description of the boundaries of the Hoopa Valley Reservation and Yurok Reservation in the Federal Register. Federal Register, publication.

(e) MANAGEMENT OF THE YUROK RESERVATION.—The Secretary shall be responsible for the management of the unallotted trust land and assets of the Yurok Reservation until such time as the Yurok Tribe has been organized pursuant to section 9. Thereafter, those lands and assets shall be administered as tribal trust land and the Yurok reservation governed by the Yurok Tribe as other reservations are governed by the tribes of those reservations.

(f) CRIMINAL AND CIVIL JURISDICTION.—The Hoopa Valley Reservation and Yurok Reservation shall be subject to section 1360 of title 28, United States Code; section 1162 of title 18, United States Code, and section 403(a) of the Act of April 11, 1968 (82 Stat. 79; 25 U.S.C. 1323(a))

SEC. 3. PRESERVATION OF SHORT CASES. 25 USC 1300i-2.

Nothing in this Act shall affect, in any manner, the entitlement established under decisions of the United States Claims Court in the Short cases or any final judgment which may be rendered in those cases.

SEC. 4. HOOPA-YUROK SETTLEMENT FUND. 25 USC 1300i-3.

(a) ESTABLISHMENT.—(1) There is hereby established the Hoopa-Yurok Settlement Fund. Upon enactment of this Act, the Secretary shall cause all the funds in the escrow funds, together with all accrued income thereon, to be deposited into the Settlement Fund.

(2) Until the distribution is made to the Hoopa Valley Tribe pursuant to section (c), the Secretary may distribute to the Hoopa Valley Tribe, pursuant to the provision of title I of the Department of the Interior and related Agencies Appropriations Act, 1985, under the heading "Bureau of Indian Affairs" and subheading "Tribal Trust Funds" at 98 Stat. 1849 (25 U.S.C. 123c), not to exceed $3,500,000 each fiscal year out of the income or principal of the Settlement Fund for tribal, non per capita purposes: *Provided, however,* That the Settlement Fund apportioned under subsections (c) and (d) shall be calculated without regard to this subparagraph, but any amounts distributed under this subparagraph shall be deducted from the payment to the Hoopa Valley Tribe pursuant to subsection (c).

(3) Until the distribution is made to the Yurok Tribe pursuant to section (d), the Secretary may, in addition to providing Federal funding, distribute to the Yurok Transition Team, pursuant to provision of title I of the Department of the Interior and Related Agencies Appropriations Act, 1985, under the heading "Bureau of Indian Affairs" and subheading "Tribal Trust Funds" at 98 Stat. 1849 (25 U.S.C. 123c), not to exceed $500,000 each fiscal year out of the income and principal of the Settlement Fund for tribal, non per capita purposes: *Provided, however,* That the Settlement Fund apportioned under subsections (c) and (d) shall be calculated without regard to this subparagraph, but any amounts distributed under this subparagraph shall be deducted from the payment to the Yurok Tribe pursuant to subsection (d). 102 STAT. 2928

(b) DISTRIBUTION; INVESTMENT.—The Secretary shall make distribution from the Settlement Fund as provided in this Act and, pending payments under section 6 and dissolution of the fund as provided in section 7, shall invest and administer such fund as Indian trust funds pursuant to the first section of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a).

(c) HOOPA VALLEY TRIBE PORTION.—Effective with the publication of the option election date pursuant to section 6(a)(4), the Secretary shall immediately pay out of the Settlement Fund into a trust account for the benefit of the Hoopa Valley Tribe a percentage of the Settlement Fund which shall be determined by dividing the number of enrolled members of the Hoopa Valley Tribe as of the date of the promulgation of the Settlement Roll, including any persons enrolled pursuant to section 6, by the sum of the number of such enrolled Hoopa Valley tribal members and the number of persons on the Settlement Roll.

(d) YUROK TRIBE PORTION.—Effective with the publication of the option election date pursuant to section 6(a)(4), the Secretary shall pay out of the Settlement Fund into a trust account for the benefit of the Yurok Tribe a percentage of the Settlement Fund which shall be determined by dividing the number of persons on the Settlement Roll electing the Yurok Tribal Membership Option pursuant to section 6(c) by the sum of the number of the enrolled Hoopa Valley tribal members established pursuant to subsection (c) and the number of persons on the Settlement Roll, less any amount paid out of the Settlement Fund pursuant to section 6(c)(3).

Appropriation authorization.

(e) FEDERAL SHARE.—There is hereby authorized to be appropriated the sum of $10,000,000 which shall be deposited into the Settlement Fund after the payments are made pursuant to subsections (c) and (d) and section 6(c). The Settlement Fund, including the amount deposited pursuant to this subsection and all income earned subsequent to the payments made pursuant to subsections (c) and (d) and section 6(c), shall be available to make the payments authorized by section 6(d).

25 USC 1300i-4.

SEC. 5. HOOPA-YUROK SETTLEMENT ROLL.

(a) PREPARATION; ELIGIBILITY CRITERIA.—(1) The Secretary shall prepare a roll of all persons who can meet the criteria for eligibility as an Indian of the Reservation and—

(A) who were born on or prior to, and living upon, the date of enactment of this Act;

(B) who are citizens of the United States; and

(C) who were not, on August 8, 1988, enrolled members of the Hoopa Valley Tribe.

(2) The Secretary's determination of eligibility under this subsection shall be final except that any Short plaintiff determined by the United States Claims Court to be an Indian of the Reservation shall be included on the Settlement Roll if they meet the other requirements of this subsection and any Short plaintiff determined by the United States Claims Court not to be an Indian of the Reservation shall not be eligible for inclusion on such roll.

(b) RIGHT TO APPLY; NOTICE.—Within thirty days after the date of enactment of this Act, the Secretary shall give such notice of the right to apply for enrollment as provided in subsection (a) as he deems reasonable except that such notice shall include, but shall not be limited to—

102 STAT. 2929

(1) actual notice by registered mail to every plaintiff in the Short cases at their last known address;

(2) notice to the attorneys for such plaintiffs; and

(3) publication in newspapers of general circulation in the vicinity of the Hoopa Valley Reservation and elsewhere in the State of California.

Federal Register, publication.

Contemporaneous with providing the notice required by this subsection, the Secretary shall publish such notice in the Federal Register.

(c) APPLICATION DEADLINE.—The deadline for application pursuant to this section shall be established at one hundred and twenty days after the publication of the notice by the Secretary in the Federal Register as required by subsection (b).

Federal Register, publication.

(d) ELIGIBILITY DETERMINATION; FINAL ROLL.—(1) The Secretary shall make determinations of eligibility of applicants under this section and publish in the Federal Register the final Settlement Roll of such persons one hundred and eighty days after the date established pursuant to subsection (c).

(2) The Secretary shall develop such procedures and times as may be necessary for the consideration of appeals from applicants not included on the roll published pursuant to paragraph (1). Successful appellants shall be added to the Settlement Roll and shall be afforded the right to elect options as provided in section 6, with any payments to be made to such successful appellants out of the remainder of the Settlement Fund after payments have been made pursuant to section 6(d) and prior to division pursuant to section 7.

(3) Persons added to the Settlement Roll pursuant to appeals under this subsection shall not be considered in the calculations made pursuant to section 4.

(e) EFFECT OF EXCLUSION FROM ROLL.—No person whose name is not included on the Settlement Roll shall have any interest in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Tribe, the Hoopa Valley Reservation, the Yurok Tribe, or the Yurok Reservation or in the Settlement Fund unless such person is subsequently enrolled in the Hoopa Valley Tribe or the Yurok Tribe under the membership criteria and ordinances of such tribes.

SEC. 6. ELECTION OF SETTLEMENT OPTIONS.

25 USC 1300i-5.

(a) NOTICE OF SETTLEMENT OPTIONS.—(1) Within sixty days after the publication of the Settlement Roll as provided in section 5(d), the Secretary shall give notice by certified mail to each person eighteen years or older on such roll of their right to elect one of the settlement options provided in this section.

Mail.

(2) The notice shall be provided in easily understood language, but shall be as comprehensive as possible and shall provide an objective assessment of the advantages and disadvantages of each of the options offered. The notice shall also provide information about the counseling services which will be made available to inform individuals about the respective rights and benefits associated with each option presented under this section. It shall also clarify that on election the Lump Sum Payment option requires the completion of a sworn affidavit certifying that the individual has been provided with complete information about the effects of such an election.

(3) With respect to minors on the Settlement Roll the notice shall state that minors shall be deemed to have elected the option of section 6(c), except that if the parent or guardian furnishes proof satisfactory to the Secretary that a minor is an enrolled member of a tribe that prohibits members from enrolling in other tribes, the parent or guardian shall make the election for such minor. A minor subject to the provisions of section 6(c) shall, notwithstanding any other law, be deemed to be a child of a member of an Indian tribe regardless of the option elected pursuant to this Act by the minor's parent. With respect to minors on the Settlement Roll whose parent or guardian is not also on the roll, notice shall be given to the parent or guardian of such minor. The funds to which such minors are entitled shall be held in trust by the Secretary until the minor reaches age 18. The Secretary shall notify and provide payment to such person including all interest accrued.

Children and youth.

102 STAT. 2930

(4)(A) The notice shall also establish the date by which time the election of an option under this section must be made. The Secretary shall establish that date as the date which is one hundred and twenty days after the date of the publication in the Federal Register as required by section 5(d).

(B) Any person on the Settlement Roll who has not made an election by the date established pursuant to subparagraph (A) shall be deemed to have elected the option provided in subsection (c).

(b) HOOPA TRIBAL MEMBERSHIP OPTION.—(1) Any person on the Settlement Roll, eighteen years or older, who can meet any of the enrollment criteria of the Hoopa Valley Tribe set out in the decision of the United States Court of Claims in its March 31, 1982, decision in the Short case (No. 102-63) as "Schedule A", "Schedule B", or "Schedule C" and who—

(A) maintained a residence on the Hoopa Valley Reservation on the date of enactment of this Act;

(B) had maintained a residence on the Hoopa Valley Reservation at any time within the five year period prior to the enactment of this Act; or

(C) owns an interest in real property on the Hoopa Valley Reservation on the date of enactment of this Act,

may elect to be, and, upon such election, shall be entitled to be, enrolled as a full member of the Hoopa Valley Tribe.

(2) Notwithstanding any provision of the constitution, ordinances or resolutions of the Hoopa Valley Tribe to the contrary, the Secretary shall cause any entitled person electing to be enrolled as a member of the Hoopa Valley Tribe to be so enrolled and such person shall thereafter be entitled to the same rights, benefits, and privileges as any other member of such tribe.

Claims.
Jesse Short.

(3) The Secretary shall determine the quantum of "Indian blood" or "Hoopa Indian blood", if any, of each person enrolled in the Hoopa Valley Tribe under this subsection pursuant to the criteria established in the March 31, 1982, decision of the United States Court of Claims in the case of Jesse Short et al. v. United States, (Cl. Ct. No. 102-63).

(4) Any person making an election under this subsection shall no longer have any right or interest whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Yurok Indian Reservation or the Yurok Tribe or in the Settlement Fund.

(c) YUROK TRIBAL MEMBERSHIP OPTION.—(1) Any person on the Settlement Roll may elect to become a member of the Yurok Tribe and shall be entitled to participate in the organization of such tribe as provided in section 9.

Claims.
Jesse Short.

(2) All persons making an election under this subsection shall form the base roll of the Yurok Tribe for purposes of organization

102 STAT. 2931

pursuant to section 9 and the Secretary shall determine the quantum of "Indian blood" if any pursuant to the criteria established in the March 31, 1982, decision of the United States Court of Claims in the case of Jesse Short et al. v. United States, (Cl. Ct. No. 102-63).

(3) The Secretary, subject to the provisions of section 7 of the Act of October 19, 1973 (87 Stat. 466), as amended (25 U.S.C. 1407), shall pay to each person making an election under this subsection, $5,000 out of the Settlement Fund for those persons who are, on the date established pursuant to section 6(a)(4), below the age of 50 years, and $7,500 out of the Settlement Fund for those persons who are, on that date, age 50 or older.

(4) Any person making an election under this subsection shall no longer have any right or interest whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Reservation or the Hoopa Valley Tribe or, except to the extent authorized by paragraph (3), in the Settlement Fund. Any such person shall also be deemed to have granted to members of the Interim Council established under section 9 an irrevocable proxy directing them to approve a proposed resolution waiving any claim the Yurok Tribe may have against the United States arising out of the provisions of this Act, and granting tribal consent as provided in section 9(d)(2).

(d) LUMP SUM PAYMENT OPTION.—(1) Any person on the Settlement Roll may elect to receive a lump sum payment from the Settlement Fund and the Secretary shall pay to each such person the amount of $15,000 out of the Settlement Fund: *Provided*, That such individual completes a sworn affidavit certifying that he or she has been afforded the opportunity to participate in counseling which the Secretary, in consultation with the Hoopa Tribal Council or Yurok Transition Team, shall provide. Such counseling shall provide a comprehensive explanation of the effects of such election on the individual making such election, and on the tribal enrollment rights of that persons children and descendants who would otherwise be eligible for membership in either the Hoopa or Yurok Tribe.

(2) The option to elect a lump sum payment under this section is provided solely as a mechanism to resolve the complex litigation and other special circumstances of the Hoopa Valley Reservation and

the tribes of the reservation, and shall not be construed or treated as a precedent for any future legislation.

(3) Any person making an election to receive, and having received, a lump sum payment under this subsection shall not thereafter have any interest or right whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Reservation, the Hoopa Valley Tribe, the Yurok Reservation, or the Yurok Tribe or, except authorized by paragraph (1), in the Settlement Fund.

SEC. 7. DIVISION OF SETTLEMENT FUND REMAINDER. 25 USC 1300i-6.

(a) Any funds remaining in the Settlement Fund after the payments authorized to be made therefrom by subsections (c) and (d) of section 6 and any payments made to successful appellants pursuant to section 5(d) shall be paid to the Yurok Tribe and shall be held by the Secretary in trust for such tribe.

(b) Funds divided pursuant to this section and any funds apportioned to the Hoopa Valley Tribe and the Yurok Tribe pursuant to subsections (c) and (d) of section 4 shall not be distributed per capita to any individual before the date which is 10 years after the date on 102 STAT. 2932
which the division is made under this section: *Provided, however,* That if the Hoopa Valley Business Council shall decide to do so it may distribute from the funds apportioned to it a per capita payment of $5,000 per member, pursuant to the Act of August 2, 1983 (25 U.S.C. 117a et seq.).

SEC. 8. HOOPA VALLEY TRIBE; CONFIRMATION OF STATUS. 25 USC 1300i-7.

The existing govening documents of the Hoopa Valley Tribe and the governing body established and elected thereunder, as heretofore recognized by the Secretary, are hereby ratified and confirmed.

SEC. 9. RECOGNITION AND ORGANIZATION OF THE YUROK TRIBE. 25 USC 1300i-8.

(a) YUROK TRIBE.—(1) Those persons on the Settlement Roll who made a valid election pursuant to subsection (c) of section 6 shall constitute the base membership roll for the Yurok Tribe whose status as an Indian tribe, subject to the adoption of the Interim Council resolution as required by subsection (d)(2), is hereby ratified and confirmed.

(2) The Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.), as amended, is hereby made applicable to the Yurok Tribe and the tribe may organize under such Act as provided in this section.

(3) Within thirty days (30) after the enactment of this Act the Secretary, after consultation with the appropriate committees of Congress, shall appoint five (5) individuals who shall comprise the Yurok Transition Team which, pursuant to a budget approved by the Secretary, shall provide counseling, promote communication with potential members of the Yurok Tribe concerning the provisions of this Act, and shall study and investigate programs, resources, and facilities for consideration by the Interim Council. Any property acquired for or on behalf of the Yurok Transition Team shall be held in the name of the Yurok Tribe.

(b) INTERIM COUNCIL; ESTABLISHMENT.—There shall be established an Interim Council of the Yurok Tribe to be composed of five members. The Interim Council shall represent the Yurok Tribe in the implementation of provisions of this Act, including the organizational provisions of this section, and subject to subsection (d) shall be the governing body of the tribe until such time as a tribal council is elected under a constitution adopted pursuant to subsection (e).

(c) GENERAL COUNCIL; ELECTION OF INTERIM COUNCIL.—(1) Within 30 days after the date established pursuant to section 6(a)(4), the Secretary shall prepare a list of all persons eighteen years of age or older who have elected the Yurok Tribal Membership Option pursuant to section 6(c), which persons shall constitute the eligible voters of the Yurok Tribe for the purposes of this section, and shall provide

written notice to such persons of the date, time, purpose, and order of procedure for the general council meeting to be scheduled pursuant to paragraph (2) for the consideration of the nomination of candidates for election to the Interim Council.

(2) Not earlier than 30 days before, nor later than 45 days after, the notice provided pursuant to paragraph (1), the Secretary shall convene a general council meeting of the eligible voters of the Yurok Tribe on or near the Yurok Reservation, to be conducted under such order of procedures as the Secretary determines appropriate, for the
102 STAT. 2933 nomination of candidates for election of members of the Interim Council. No person shall be eligible for nomination who is not on the list prepared pursuant to this section.

(3) Within 45 days after the general council meeting held pursuant to paragraph (2), the Secretary shall hold an election by secret ballot, with absentee balloting and write-in voting to be permitted, to elect the five members of the Interim Council from among the nominations submitted to him from such general council meeting. The Secretary shall assure that notice of the time and place of such election shall be provided to eligible voters at least fifteen days before such election.

(4) The Secretary shall certify the results of such election and, as soon as possible, convene an organizational meeting of the newly-elected members of the Interim Council and shall provide such advice and assistance as may be necessary for such organization.

(5) Vacancies on the Interim Council shall be filled by a vote of the remaining members.

(d) INTERIM COUNCIL; AUTHORITIES AND DISSOLUTION.—(1) The Interim Council shall have no powers other than those given to it by this Act.

(2) The Interim Council shall have full authority to adopt a resolution—

(i) waiving any claim the Yurok Tribe may have against the United States arising out of the provision of this Act, and

(ii) affirming tribal consent to the contribution of Yurok Escrow monies to the Settlement Fund, and for their use as payments to the Hoopa Tribe, and to individual Hoopa members, as provided in this Act, and

(iii) to receive grants from, and enter into contracts for, Federal programs, including those administered by the Secretary and the Secretary of Health and Human Services, with respect to Federal services and benefits for the tribe and its members.

(3) The Interim Council shall have such other powers, authorities, functions, and responsibilities as the Secretary may recognize, except that any contract or legal obligation that would bind the Yurok Tribe for a period in excess of two years from the date of the certification of the election by the Secretary shall be subject to disapproval and cancellation by the Secretary if the Secretary determines that such a contract or legal obligation is unnecessary to improve housing conditions of members of the Yurok Tribe, or to obtain other rights, privileges or benefits that are in the long-term interest of the Yurok Tribe.

(4) The Interim Council shall appoint, as soon as practical, a drafting committee which shall be responsible, in consultation with the Interim Council, the Secretary and members of the tribe, for the preparation of a draft constitution for submission to the Secretary pursuant to subsection (e).

(5) The Interim Council shall be dissolved effective with the election and installation of the initial tribe governing body elected pursuant to the constitution adopted under subsection (e) or at the end of two years after such installation, whichever occurs first.

(e) ORGANIZATION OF YUROK TRIBE.—Upon written request of the Interim Council or the drafting committee and the submission of a draft constitution as provided in paragraph (4) of subsection (d), the Secretary shall conduct an election, pursuant to the provisions of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 461 et seq.) and rules and regulations promulgated thereunder, for the adoption

of such constitution and, working with the Interim Council, the election of the initial tribal governing body upon the adoption of such constitution.

102 STAT. 2934

SEC. 10. ECONOMIC DEVELOPMENT.

25 USC 1300i-9.

(a) PLAN FOR ECONOMIC SELF-SUFFICIENCY.—The Secretary shall—

(1) enter into negotiations with the Yurok Transition Team and the Interim Council of the Yurok Tribe with respect to establishing a plan for economic development for the tribe; and

(2) in accordance with this section and not later than two years after the date of enactment of this Act, develop such a plan.

(3) upon the approval of such plan by the Interim Council or tribal governing body (and after consultation with the State and local officials pursuant to subsection (b) of this section), the Secretary shall submit such plan to the Congress.

(b) CONSULTATION WITH STATE AND LOCAL OFFICIALS REQUIRED.—To assure that legitimate State and local interests are not prejudiced by the proposed economic self-sufficiency plan, the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State. The Secretary shall provide complete information on the proposed plan to such officials, including the restrictions on such proposed plan imposed by subsection (c) of this section. During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess, and shall request comments and additional information on the extent of any State or local service to the tribe.

(c) RESTRICTIONS TO BE CONTAINED IN PLAN.—Any plan developed by the Secretary under subsection (a) of this section shall provide that—

(1) any real property transferred by the tribe or any member to the Secretary shall be taken and held in the name of the United States for the benefit of the tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land existing at the time of the acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax;

(B) foreclosure or sale in accordance with the laws of the State pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind.

(d) APPENDIX TO PLAN SUBMITTED TO THE CONGRESS.—The Secretary shall append to the plan submitted to the Congress under subsection (a) of this section a detailed statement—

(1) naming each individual and official consulted in accordance with subsection (b) of this section;

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any party named in paragraph (1).

102 STAT. 2935

SEC. 11. SPECIAL CONSIDERATIONS.

25 USC 1300i-10.

(a) ESTATE FOR SMOKERS FAMILY.—The 20 acre land assignment on the Hoopa Valley Reservation made by the Hoopa Area Field Office of the Bureau of Indian Affairs on August 25, 1947, to the Smokers family shall continue in effect and may pass by descent or devise to any blood relative or relatives of one-fourth or more Indian blood of those family members domiciled on the assignment on the date of enactment of this Act.

(b) RANCHERIA MERGER WITH YUROK TRIBE.—If a majority of the adult members of any of the following Rancherias at Resighini, Trinidad, or Big Lagoon, vote to merge with the Yurok Tribe in an election which shall be conducted by the Secretary within ninety days after the date of enactment of this Act, the tribes and reservations of those rancherias so voting shall be extinguished and the lands and members of such reservations shall be part of the Yurok Reservation with the unallotted trust land therein held in trust by the United States for the Yurok Tribe: *Provided, however,* That the existing governing documents and the elected governing bodies of any rancherias voting to merge shall continue in effect until the election of the Interim Council pursuant to section 9. The Secretary shall publish in the Federal Register a notice of the effective date of the merger.

Federal Register, publication.

(c) PRESERVATION OF LEASEHOLD AND ASSIGNMENT RIGHTS OF RANCHERIA RESIDENTS.—Real property on any rancheria that merges with the Yurok Reservation pursuant to subsection (b) that is, on the date of enactment of this Act, held by any individual under a lease shall continue to be governed by the terms of the lease, and any land assignment existing on the date of the enactment of this Act shall continue in effect and may pass by descent or devise to any blood relative or relatives of Indian blood of the assignee.

SEC. 12. KLAMATH RIVER BASIN FISHERIES TASK FORCE.

(a) IN GENERAL.—Section 4(c) of the Act entitled "An Act to provide for the restoration of the fishery resources in the Klamath River Basin, and for other purposes" (16 U.S.C. 460ss-3) is amended—

(A) in the matter preceding paragraph (1), by striking out "12" and inserting in lieu thereof "14"; and

(B) by inserting at the end thereof the following new paragraphs:

"(11) A representative of the Karuk Tribe, who shall be appointed by the governing body of the Tribe,

"(12) A representative of the Yurok Tribe, who shall be appointed by the Secretary until such time as the Yurok Tribe is organized upon which time the Yurok Tribe shall appoint such representative beginning with the first appointment ordinarily occurring after the Yurok Tribe is organized".

16 USC 460ss-3 note.

(b) SPECIAL RULE.—The initial term of the representative appointed pursuant to section 4(c) (11) and (12) of such Act (as added by the amendment made by subsection (a)) shall be for that time which is the remainder of the terms of the members of the Task Force then serving. Thereafter, the term of such representatives shall be as provided in section 4(e) of such Act.

SEC. 13. TRIBAL TIMBER SALES PROCEEDS USE.

Section 7 of the Act of June 25, 1910 (36 Stat. 857; 25 U.S.C. 407) is amended to read as follows:

"SEC. 7. Under regulations prescribed by the Secretary of the Interior, the timber on unallotted trust land in Indian reservations or on other land held in trust for tribes may be sold in accordance with the principles of sustained-yield management or to convert the land to a more desirable use. After deduction, if any, for administrative expenses under the Act of February 14, 1920 (41 Stat. 415; 25 U.S.C. 413), the proceeds of the sale shall be used—

"(1) as determined by the governing bodies of the tribes concerned and approved by the Secretary, or

"(2) in the absence of such a governing body, as determined by the Secretary for the tribe concerned.".

25 USC 1300i-11.

SEC. 14. LIMITATIONS OF ACTIONS; WAIVER OF CLAIMS.

(a) Any claim challenging the partition of the joint reservation pursuant to section 2 or any other provision of this Act as having

are the subject of existing and prospective lawsuits involving the United States, the State of Colorado, and numerous parties in southwestern Colorado.

(2) These lawsuits will prove expensive and time consuming to the Indian and non-Indian communities of southwestern Colorado.

(3) The major parties to the lawsuits and others interested in the settlement of the water rights claims of the Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe have worked diligently to settle these claims, resulting in the June 30, 1986, Binding Agreement for Animas-La Plata Project Cost Sharing which was executed in compliance with the cost sharing requirements of chapter IV of Public Law 99-88 (99 Stat. 293), and the December 10, 1986, Colorado Ute Indian Water Rights Final Settlement Agreement.

(4) The Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe, by resolution of their respective tribal councils, which are the duly recognized governing bodies of each Tribe, have approved the December 10, 1986, Agreement and sought Federal implementation of its terms.

(5) This Act is required to implement portions of the above two agreements.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "Agreement" means the Colorado Ute Indian Water Rights Final Settlement Agreement dated December 10, 1986, among the State of Colorado, the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe, the United States, and other participating parties.

(2) The term "Animas-La Plata Project" means the Animas-La Plata Project, Colorado and New Mexico, a participating project under the Act of April 11, 1956 (70 Stat. 105; 43 U.S.C. 620; commonly referred to as the "Colorado River Storage Project Act") and the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.).

102 STAT. 2974

(3) The term "Dolores Project" means the Dolores Project, Colorado, a participating project under the Act of April 11, 1956 (70 Stat. 105; 43 U.S.C. 620; commonly referred to as the "Colorado River Storage Project Act"), the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.), and as further authorized by the Colorado River Basin Salinity Control Act (98 Stat. 2933; 43 U.S.C. 1591).

(4) The term "final consent decree" means the consent decree contemplated to be entered after the date of enactment of this Act in the District Court, Water Division No. 7, State of Colorado, which will implement certain provisions of the Agreement.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The terms "Tribe" and "Tribes" mean the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe, or both Tribes, as the context may require.

(7) The term "water year" means a year commencing on October 1 each year and running through the following September 30.

SEC. 4. PROVISION OF WATER TO TRIBES.

(a) WATER FROM THE ANIMAS-LA PLATA AND DOLORES PROJECTS.—The Secretary is authorized to supply water to the Tribes from the Animas-La Plata and Dolores Projects in accordance with the Agreement: *Provided,* That nothing in this subsection or in the authorized purposes of the projects may be construed to permit or prohibit the sale, exchange, lease, use, or other disposal of such water by the Tribes. Any such sale, exchange, lease, use, or other disposal of water from these projects shall be governed solely by the other provisions of this Act and the Agreement as modified pursuant to section 11 of this Act.

(b) APPLICATION OF FEDERAL RECLAMATION LAWS.—Except as provided in section 5 of this Act, the water supplied to the Tribes from the Animas-La Plata Project and the Dolores Project shall be subject to Federal reclamation laws only to the extent needed to effectuate the terms and conditions contained in Article III, section A, subsections 1 and 2 and Article III, section B of subsection 1 of the Agreement.

SEC. 5. DISPOSAL OF WATER.

(a) INDIAN INTERCOURSE ACT.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Agreement and the final consent decree: *Provided*, That nothing in this subsection shall be considered to amend, construe, supersede, or preempt any State law, Federal law, interstate compact, or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(b) RESTRICTION ON DISPOSAL OF WATERS INTO LOWER COLORADO RIVER BASIN.—None of the waters from the Animas-La Plata or Dolores Projects may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin unless water within the Colorado River Basin held by non-Federal, non-Indian holders of that water pursuant to any water rights could be so sold, exchanged, leased, used, or otherwise disposed of under State law, Federal law, interstate compacts, or international treaty pursuant to a final, nonappealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact.

Courts, U.S.

102 STAT. 2975

(c) USE OF WATER RIGHTS.—(1) The use of the rights referred to in subsection (a) within the State of Colorado shall be governed solely as provided in the Agreement as modified pursuant to section 11 of this Act and this subsection. The Agreement is hereby modified to provide that a Tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Agreement and final consent decree off its reservation. If either the Southern Ute Indian Tribe or the Ute Mountain Ute Indian Tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the Tribe's water right shall be changed to a Colorado State water right, but be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

Contracts.

(2) The characterizations in the Agreement of any water rights which may be used off the reservation of the respective Tribe as either "project reserved water right" or "nonproject reserved water right" are hereby expressly disapproved and any claim to water rights so characterized shall be extinguished when the final consent decree is entered.

(d) RULES OF CONSTRUCTION.—Nothing in this Act or in the Agreement shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservations;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any water held pursuant to a Colorado State water right, or of any Colorado State water right, outside the State of Colorado; or

(3) be deemed a congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Colorado.

Contracts.

SEC. 6. REPAYMENT OF PROJECT COSTS.

(a) MUNICIPAL AND INDUSTRIAL WATER.—(1) The Secretary shall defer, without interest, the repayment of the construction costs allocable to each Tribe's municipal and industrial water allocation from the Animas-La Plata and Dolores Projects until water is first used either by the Tribe or pursuant to a water use contract with the Tribe. Until such water is first used either by a Tribe or pursuant to a water use contract with the Tribe, the Secretary shall bear the annual operation, maintenance, and replacement costs allocable to the Tribe's municipal and industrial water allocation from the Animas-La Plata and Dolores Projects, which costs shall not be reimbursable by the Tribe.

(2) As an increment of such water is first used by a Tribe or is first used pursuant to the terms of a water use contract with the Tribe, repayment of that increment's pro rata share of such allocable construction costs shall commence by the Tribe and the Tribe shall commence bearing that increment's pro rata share of the allocable annual operation, maintenance, and replacement costs.

102 STAT. 2976

(b) AGRICULTURAL IRRIGATION WATER.—(1) The Secretary shall defer, without interest, the repayment of the construction costs within the capability of the land to repay, which are allocable to each Tribe's agricultural irrigation water allocation from the Animas-La Plata and Dolores Projects in accordance with the Act of July 1, 1932 (25 U.S.C. 386a; commonly referred to as the "Leavitt Act"), and section 4 of the Act of April 11, 1956 (70 Stat. 107; 43 U.S.C. 620c; commonly referred to as the "Colorado River Storage Project Act"). Such allocated construction costs which are beyond the capability of the land to repay shall be repaid as provided in subsection (g) of this section. Until such water is first used either by a Tribe or pursuant to a water use contract with the Tribe, the Secretary shall bear the annual operation, maintenance, and replacement costs allocable to the Tribe's agricultural irrigation allocation from the Animas-La Plata Project, which costs shall not be reimbursable by the Tribe.

(2) As an increment of such water is first used by a Tribe or is first used pursuant to the terms of a water use contract with the Tribe, the Tribe shall commence bearing that increment's pro rata share of the allocable annual operation, maintenance, and replacement costs.

Agriculture and agricultural commodities.

During any period in which water is used by a tribal lessee on land owned by non-Indians, the Tribe shall bear that increment's pro rata share of the allocated agricultural irrigation construction costs within the capability of the land to repay as established in subsection (b)(1).

(c) ANNUAL COSTS WITH RESPECT TO RIDGES BASIN PUMPING PLANT.—(1) The Secretary shall bear any increased annual operation, maintenance, and replacement costs to Animas-La Plata Project water users occasioned by a decision of either Tribe not to take delivery of its Animas-La Plata Project water allocations from Ridges Basin Pumping Plant through the Long Hollow Tunnel and the Dry Side Canal pursuant to Article III, section A, subsection 2.i and Article III, section B, subsection 1.i of the Agreement until such water is first used either by a Tribe or pursuant to a water use contract with the Tribe. Such costs shall not be reimbursable by the Tribe.

(2) As an increment of its water from the Animas-La Plata Project is first used by a Tribe or is first used pursuant to the terms of a water use contract with the Tribe, the Tribe shall commence bearing that increment's pro rata share of such increased annual operation, maintenance, and replacement costs, if any.

(d) SECRETARIAL DEFERRAL.—The Secretary may further defer all or a part of the tribal construction cost obligations and bear all or a part of the tribal operation, maintenance, and replacement obligations described in this section in the event a Tribe demonstrates that it is unable to satisfy those obligations in whole or in part from the gross revenues which could be generated from a water use contract for the use of its water either from the Dolores or the Animas-La Plata Projects or from the Tribe's own use of such water.

(e) USE OF WATER.—For the purpose of this section, use of water shall be deemed to occur in any water year in which a Tribe actually uses water or during the term of any water use contract. A water use contract pursuant to which the only income to a Tribe is in the nature of a standby charge is deemed not to be a use of water for the purposes of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated such funds as may be necessary for the Secretary to pay the annual operation, maintenance, and replacement costs as provided in this section.

102 STAT. 2977

(g) COSTS IN EXCESS OF ABILITY OF THE IRRIGATORS TO REPAY.—The portion of the costs of the Animas-La Plata Project in excess of the ability of the irrigators to repay shall be repaid from the Upper Colorado River Basin Fund pursuant to the Colorado River Storage Project Act and the Colorado River Basin Project Act.

(h) DEFERRAL OF CERTAIN CONSTRUCTION COSTS.—Repayment of the portion of the construction costs of the Florida Project which have been allocated to the 563 acre-feet of agricultural irrigation water for which the Southern Ute Tribe is responsible shall be deferred by the Secretary pursuant to the Act of July 1, 1932 (25 U.S.C. 386a; 47 Stat. 564) as provided in section 4(d) of the Act of April 11, 1956 (43 U.S.C. 620c; 70 Stat. 107), and the Florida Water Conservancy District's current repayment obligation shall not change.

SEC. 7. TRIBAL DEVELOPMENT FUNDS.

(a) ESTABLISHMENT.—There is hereby authorized to be appropriated the total amount of $49,500,000 for three annual installment payments to the Tribal Development Funds which the Secretary is authorized and directed to establish for each Tribe. Subject to appropriation, and within 60 days of availability of the appropriation to the Secretary, the Secretary shall allocate and make payment to the Tribal Development Funds as follows:

Appropriation authorization.

(1) To the Southern Ute Tribal Development Fund, in the first year, $7,500,000; in the two succeeding years, $5,000,000 and $5,000,000, respectively.

(2) To the Ute Mountain Ute Tribal Development Fund, in the first year, $12,000,000; in the two succeeding years, $10,000,000 and $10,000,000, respectively.

(b) ADJUSTMENT.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribes shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Funds, an adjustment representing the interest income as determined by the Secretary in his sole discretion that would have been earned on any unpaid amount had that amount been placed in the fund as set forth in section 7(a).

(c) TRIBAL DEVELOPMENT.—(1) The Secretary shall, in the absence of an approved tribal investment plan provided for in paragraph (2), invest the moneys in each Tribal Development Fund in accordance with the Act entitled "An Act to authorize the deposit and investment of Indian funds" approved June 24, 1938 (25 U.S.C. 162a). Separate accounts shall be maintained for each Tribe's development fund. The Secretary shall disburse, at the request of a Tribe, the principal and income in its development fund, or any part thereof, in accordance with an economic development plan approved under paragraph (3).

Securities.

(2) Each Tribe may submit a tribal investment plan for all or part of its Tribal Development Fund as an alternative to the investment provided for in paragraph (1). The Secretary shall approve such investment plan within 60 days of its submission if the Secretary finds the plan to be reasonable and sound. If the Secretary does not approve such investment plan, the Secretary shall set forth in writing and with particularity the reasons for such disapproval. If such investment plan is approved by the Secretary, the Tribal Development Fund shall be disbursed to the Tribe to be invested by the Tribe in accordance with the approved investment plan. The

effected a taking under the fifth amendment of the United States Constitution or as otherwise having provided inadequate compensation shall be brought, pursuant to 28 U.S.C. 1491 or 28 U.S.C. 1505, in the United States Claims Court.

(b)(1) Any such claim by any person or entity, other than the Hoopa Valley Tribe or the Yurok Tribe, shall be forever barred if not brought within the later of 210 days from the date of the partition of the joint reservation as provided in section 2 or 120 days after the publication in the Federal Register of the option election date as required by section 6(a)(4).

(2) Any such claim by the Hoopa Valley Tribe shall be barred 180 days after the date of enactment of this Act or such earlier date as may be established by the adoption of a resolution waiving such claims pursuant to section 2(a)(2).

(3) Any such claim by the Yurok Tribe shall be barred 180 days after the general council meeting of the Yurok Tribe as provided in section 9 or such earlier date as may be established by the adoption of a resolution waiving such claims as provided in section 9(d)(2).

(c)(1) The Secretary shall prepare and submit to the Congress a report describing the final decision in any claim brought pursuant to subsection (b) against the United States or its officers, agencies, or instrumentalities. Reports.

(2) Such report shall be submitted no later than 180 days after the entry of final judgment in such litigation. The report shall include any recommendations of the Secretary for action by Congress, including, but not limited to, any supplemental funding proposals necessary to implement the terms of this Act and any modifications to the resource and management authorities established by this Act. Notwithstanding the provisions of 28 U.S.C. 2517, any judgment entered against the United States shall not be paid for 180 days after the entry of judgment; and, if the Secretary of the Interior submits a report to Congress pursuant to this section, then payment shall be made no earlier than 120 days after submission of the report.

102 STAT. 2937

Approved October 31, 1988.

LEGISLATIVE HISTORY—S. 2723 (H.R. 4469):

HOUSE REPORTS: No. 100-938, Pt. 1, accompanying H.R. 4469 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-564 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 30, considered and passed Senate.
Oct. 3, 4, considered and passed House.

Public Law 100-585
100th Congress

102 STAT. 2973

An Act

To facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and for other purposes.

Nov. 3, 1988
[H.R. 2642]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Colorado Ute Indian Water Rights Settlement Act of 1988.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Colorado Ute Indian Water Rights Settlement Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) The Federal reserved water rights claims of the Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe

102 STAT. 2978

Secretary may take such steps as he deems necessary to monitor compliance with the approved investment plan. The United States shall not be responsible for the review, approval, or audit of any individual investment under the plan. The United States shall not be directly or indirectly liable with respect to any such investment, including any act or omission of the Tribe in managing or investing such funds. The principal and income from tribal investments under an approved investment plan shall be subject to the provisions of this section and shall be expended in accordance with an economic development plan approved under paragraph (3).

(3) Each Tribe shall submit an economic development plan for all or any portion of its Tribal Development Fund to the Secretary. The Secretary shall approve such plan within 60 days of its submission if the Secretary finds that it is reasonably related to the economic development of the Tribe. If the Secretary does not approve such plan, the Secretary shall, at the time of decision, set forth in writing and with particularity the reasons for such disapproval. Each Tribe may alter the economic development plan, subject to the approval of the Secretary as set forth in this subsection. The Secretary shall not be directly or indirectly liable for any claim or cause of action arising from the approval of an economic development plan or from the use and expenditure by the Tribe of the principal of the funds and income accruing to the funds, or any portion thereof, following the approval by the Secretary of an economic development plan.

(d) PER CAPITA DISTRIBUTIONS.—Under no circumstances shall any part of the principal of the funds, or of the income accruing to such funds, or the revenue from any water use contract, be distributed to any member of either Tribe on a per capita basis.

(e) LIMITATION ON SETTING ASIDE FINAL CONSENT DECREE.—Neither the Tribes nor the United States shall have the right to set aside the final consent decree solely because subsection (c) is not satisfied or implemented.

SEC. 8. WAIVER OF CLAIMS.

(a) GENERAL AUTHORITY.—The Tribes are authorized to waive and release claims concerning or related to water rights as described in the Agreement.

(b) CONDITION ON PERFORMANCE BY SECRETARY.—Performance by the Secretary of his obligations under this Act and payment of the moneys authorized to be paid to the Tribes by this Act shall be required only when the Tribes execute a waiver and release as provided in the Agreement.

SEC. 9. ADMINISTRATION.

In exercising his authority to administer water rights on the Ute Mountain Ute and Southern Ute Indian Reservations, the Secretary, on behalf of the United States, shall comply with the administrative procedures governing the water rights confirmed in the Agreement and the Final Consent Decree to the extent provided in Article IV of the Agreement.

SEC. 10. INDIAN SELF-DETERMINATION ACT.

(a) IN GENERAL.—The design and construction functions of the Bureau of Reclamation with respect to the Dolores and Animas-La Plata Projects shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act (88 Stat. 2203; 25 U.S.C. 450 et seq.) to the same extent as if such functions were performed by the Bureau of Indian Affairs.

102 STAT. 2979

(b) APPLICATION.—This section shall not apply if the application of this section would detrimentally affect the construction schedules of the Dolores and Animas-La Plata Projects.

SEC. 11. MODIFICATION OF AGREEMENT; RULE OF CONSTRUCTION.

(a) MODIFICATION.—The Agreement shall be deemed to have been modified to conform to this Act.

(b) RULE OF CONSTRUCTION.—The Agreement shall be construed in a manner consistent with this Act. This Act is intended solely to

permit settlement of existing and prospective litigation among the signatory parties to the Agreement. This Act is the result of a voluntary compromise agreement between the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe, the State of Colorado, local water districts and municipalities, and the United States. Accordingly, no provision of this Act, the Agreement, or the final consent decree shall be construed as altering or affecting the determination of any questions relating to the reserved water rights belonging to other Indian tribes.

SEC. 12. INDIVIDUAL MEMBERS OF TRIBES.

Any entitlement to reserved water of any individual member of either Tribe shall be satisfied from the water secured to that member's Tribe.

SEC. 13. EFFECTIVE DATE.

(a) Sections 4(b), 5, and 6 of this Act shall take effect on the date on which the final consent decree contemplated by the Agreement is entered by the District Court, Water Division No. 7, State of Colorado. Any moneys appropriated under section 7 of this Act shall be placed into the Ute Mountain Ute and Southern Ute Tribal Development Funds in the Treasury of the United States together with other parties' contributions to the Tribal Development Funds, but shall not be available for disbursement pursuant to section 7 until such time as the final consent decree is entered. If the final consent decree is not entered by December 31, 1991, the moneys so deposited shall be returned, together with a ratable share of accrued interest, to the respective contributors and the Ute Mountain Ute and Southern Ute Tribal Development Funds shall be terminated and the Agreement may be voided by any party to the Agreement. Upon such termination, the amount contributed thereto by the United States shall be deposited in the general fund of the Treasury.

(b) No provision of this Act shall be of any force or effect if the final consent decree is not executed and approved by the court.

SEC. 14. VOIDING OF AGREEMENT.

The United States shall not exercise its right to void the Agreement pursuant to Article VI, section C, subsection 2 thereof.

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 2642 (S. 1415):

HOUSE REPORTS: No. 100-932 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-555 accompanying S. 1415 (Select Comm. on Indian Affairs and Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, considered and passed House.
Oct. 14, considered and passed Senate.

Public Law 100-653
100th Congress

102 STAT. 3825

An Act

To reauthorize and amend certain wildlife laws, and for other purposes.

Nov. 14, 1988
[H.R. 4030]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.
Fish and fishing.

TITLE I—LACEY ACT AMENDMENTS

SEC. 101. PROHIBITED ACTS.

Section 3 of the Lacey Act Amendments of 1981 (16 U.S.C. 3372) is amended—

(1) in subsection (a)(1) (16 U.S.C. 3372(a)(1)) by striking "taken or possessed" and inserting in lieu thereof "taken, possessed, transported, or sold";

(2) by striking subsection (a)(4) (16 U.S.C. 3372(a)(4)) and redesignating subsection (a)(5) as subsection (a)(4); and

(3) by adding at the end thereof the following:

"(c) SALE AND PURCHASE OF GUIDING AND OUTFITTING SERVICES AND INVALID LICENSES AND PERMITS.—

Hunting.

"(1) SALE.—It is deemed to be a sale of fish or wildlife in violation of this Act for a person for money or other consideration to offer or provide—

"(A) guiding, outfitting, or other services; or

"(B) a hunting or fishing license or permit;

for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife.

"(2) PURCHASE.—It is deemed to be a purchase of fish or wildlife in violation of this Act for a person to obtain for money or other consideration—

"(A) guiding, outfitting, or other services; or

"(B) a hunting or fishing license or permit;

for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife.

Imports. Exports. Commerce and trade. Plants.

"(d) FALSE LABELING OFFENSES.—It is unlawful for any person to make or submit any false record, account, or label for, or any false identification of, any fish, wildlife, or plant which has been, or is intended to be—

"(1) imported, exported, transported, sold, purchased, or received from any foreign country; or

"(2) transported in interstate or foreign commerce.".

SEC. 102. PENALTY.

(a) CIVIL PENALTY.—Paragraph (1) of section 4(a) of the Lacey Act Amendments of 1981 (16 U.S.C. 3373(a)(1)) is amended by inserting "and any person who knowingly violates section 3(d)," after "any underlying law, treaty, or regulation,".

(b) CRIMINAL PENALTY.—Subsection (d) of section 4 of the Lacey Act Amendments of 1981 (16 U.S.C. 3373(d)) is amended by adding at the end the following:

102 STAT. 3826

"(3) Any person who knowingly violates section 3(d)—

"(A) shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both, if the offense involves—

Imports. Exports. Plants.

"(i) the importation or exportation of fish or wildlife or plants; or

"(ii) the sale or purchase, offer of sale or purchase, or commission of an act with intent to sell or purchase fish or wildlife or plants with a market value greater than $350; and

"(B) shall be fined under title 18, United States Code, or imprisoned for not more than 1 year, or both, if the offense does not involve conduct described in subparagraph (A).".

16 USC 3373.

(c) CONFORMING AMENDMENTS.—Section 4 is amended in subsections (a)(1), (d)(1)(A), (d)(1)(B), and (d)(2) by striking "(other than section 3(b))" each place those words appear and inserting in lieu thereof "(other than subsections (b) and (d) of section 3)".

SEC. 103. REVIEW OF CIVIL PENALTY.

The first sentence of subsection (c) of section 4 of the Lacey Act Amendments of 1981 (16 U.S.C. 3373(c)) is amended to read as follows:

"(c) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under this section may obtain review thereof in the appropriate District Court of the United States by filing a complaint in such court within 30 days after the date of such order and by simultaneously serving a copy of the complaint by certified mail on the Secretary, the Attorney General, and the appropriate United States attorney.".

SEC. 104. ENFORCEMENT POWERS.

Subsection (b) of section 6 of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(b)) is amended in the first sentence by striking all after the first clause and before the proviso and inserting the following: "may, when enforcing this Act, make an arrest without a warrant, in accordance with any guidelines which may be issued by the Attorney General, for any offense under the laws of the United States committed in the person's presence, or for the commission of any felony under the laws of the United States, if the person has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; may search and seize, with or without a warrant, in accordance with any guidelines which may be issued by the Attorney General;".

TITLE II—SIKES ACT AMENDMENTS AND AUTHORIZATION

SEC. 201. STATE USE OF AMOUNTS FROM STAMP FEES.

Section 203(b)(3) of Public Law 86-797 (commonly known as the Sikes Act; 16 U.S.C. 670i(b)(3)) is amended to read as follows:

"(3) Except for expenses incurred in the printing, issuing, or selling of such stamps, the fees collected for such stamps by the State agency shall be utilized in carrying out conservation and rehabilitation programs implemented under this title in the State concerned. Such fees may be used by the State agency to acquire lands or interests therein from willing sellers or donors to provide public access to program lands that have no existing public access for enhancement of outdoor recreation and wildlife conservation: 102 STAT. 3827
Provided, That the Secretary of Agriculture and the Secretary of the Interior maintain such access, or ensure that maintenance is provided for such access, through or to lands within their respective jurisdiction.".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FOR CONSERVATION PROGRAMS ON MILITARY RESERVATIONS.—Subsections (b) and (c) of section 106 of Public Law 86-797 (16 U.S.C. 670f (b) and (c)) are each amended by striking "and 1988," and inserting in lieu thereof "1988, 1989, 1990, 1991, 1992, and 1993,".

(b) AUTHORIZATION OF APPROPRIATIONS FOR CONSERVATION PROGRAMS ON PUBLIC LANDS.—Subsections (a) and (b) of section 209 of Public Law 86-797 (16 U.S.C. 670o(a) and (b)) are each amended by striking "and 1988," and inserting in lieu thereof "1988, 1989, 1990, 1991, 1992, and 1993,".

TITLE III—WETLANDS LOAN FUND EXTENSION: MIGRATORY BIRD HUNTING STAMP ACT AMENDMENT

SEC. 301. WETLANDS LOAN FUND EXTENSION.

The first section of the Act entitled "An Act to promote the conservation of migratory waterfowl by the acquisition of wetlands, and for other essential waterfowl habitat, and for other purposes, approved October 4, 1961 (16 U.S.C. 715k-3), is amended by striking "at the close of September 30, 1988," and inserting in lieu thereof "when all amounts authorized to be appropriated have been expended,".

SEC. 302. MIGRATORY BIRD HUNTING STAMP ACT AMENDMENT.

Section 5 of the Act of March 16, 1934 (commonly known as the Migratory Bird Hunting Stamp Act; 16 U.S.C. 718e(c)) is amended in the second sentence by inserting after "paid" the following: ", after deducting expenses for marketing,".

TITLE IV—CONVEYANCE AND NAMING OF FISH HATCHERIES

Georgia.

SEC. 401. CONVEYANCE.

Subject to section 403, the Secretary of the Interior shall convey, without consideration, to the University of Georgia all right, title, and interest of the United States in and to the property described in section 402, for use by the University of Georgia in its fishery research and extension program.

SEC. 402. DESCRIPTION OF PROPERTY.

The property referred to in section 401 is a tract of land comprising approximately 63 acres, and improvements thereto, located in lots 25 and 48 of the 11th District, 3rd Section, Whitfield County, Georgia, as generally depicted in the legal description of the Cohutta Fish Hatchery contained in Appendix A of the Memorandum of Agreement between the United States Fish and Wildlife Service and the University of Georgia, Agreement No. 14-16-0004-83-926, dated September 29, 1983.

SEC. 403. REVERSIONARY INTEREST OF THE UNITED STATES.

The property conveyed under section 401 of this title shall continue to be reserved, maintained, and utilized by the University of Georgia in its fishery research and extension program. If any of the property is used for any other purpose, the title to such property shall revert to the United States.

Georgia.

SEC. 404. NAMING OF BO GINN NATIONAL FISH HATCHERY AND AQUARIUM.

The fish hatchery and aquarium known as the Millen National Fish Hatchery, located on Georgia State Highway 25 north of Millen, Georgia, shall be known as the "Bo Ginn National Fish Hatchery and Aquarium". Any reference in any law, map, regulation, document, record, or other paper of the United States to such hatchery and aquarium is deemed to be a reference to the "Bo Ginn National Fish Hatchery and Aquarium".

SEC. 405. CONVEYANCE OF FISH HATCHERY TO THE COMMONWEALTH OF KENTUCKY.

Notwithstanding any other provision of law and within 180 days of the date of enactment of this Act, the Secretary of the Interior shall convey, without reimbursement, to the Commonwealth of Kentucky, all of the right, title, and interest, including the water rights, of the United States in and to the fish hatchery property located approximately 14 miles due north of the city of Frankfort in Franklin County, Kentucky and known as the Frankfort National Fish Hatchery, consisting of 114.2 acres, more or less, of land together with any improvements and related personal property thereon. The property conveyed by this Act shall be used by the Kentucky Department of Fish and Wildlife Resources as a part of the Kentucky fishery resources management program and if it is used for any other purpose, title to such property shall revert to the United States.

SEC. 406. CONVEYANCE OF FISH HATCHERY TO THE STATE OF NEW HAMPSHIRE.

Notwithstanding any other provision of law, the Secretary of the Interior shall convey, without reimbursement, to the State of New Hampshire no later than December 31, 1988, all of the right, title, and interest of the United States in and to those improvements and related personal property under the Secretary's jurisdiction, including buildings, structures and equipment, associated with the United States' facility known as the Berlin National Fish Hatchery and located in the northwest corner of Berlin township, Coos County, New Hampshire. The improvements and related personal property conveyed shall be used by the New Hampshire Fish and Game Department as a part of the New Hampshire fishery resources

management program and if they are used for any other purpose, title to such property shall revert to the United States.

SEC. 407. CONVEYANCE OF FISH HATCHERY TO THE STATE OF WISCONSIN.

Notwithstanding any other provision of law and within 180 days of the date of enactment of this Act, the Secretary of the Interior shall convey, without reimbursement, to the State of Wisconsin, all of the right, title, and interest, including the easements and water rights, of the United States in and to the fish hatchery property located in the Town of Lake Mills, Wisconsin, and known as the Lake Mills National Fish Hatchery, consisting of the land together with any improvements and related personal property thereon. The property conveyed by this Act shall be used by the Wisconsin Department of Natural Resources as a part of the Wisconsin fishery resources management program and if it is used for any other purpose, title to such property shall revert to the United States. 102 STAT. 3829

TITLE V—ACQUISITION OF LANDS ADJACENT TO KILAUEA POINT NATIONAL WILDLIFE REFUGE

Hawaii.

SEC. 501. ADDITIONAL LANDS.

(a) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire certain additional lands adjacent to the Kilauea Point National Wildlife Refuge on Kauai, Hawaii, which shall become part of the Kilauea Point National Wildlife Refuge upon acquisition by the Secretary.

(b) DESCRIPTION OF LANDS.—The lands to be acquired pursuant to subsection (a) are—

(1) Crater Hill, comprising approximately 101.1 acres; and

(2) Mokolea Point, comprising 37.6 acres.

SEC. 502. CONSTRUCTION AND ENHANCEMENT PROJECTS.

(a) IN GENERAL.—Within the Kilauea Point National Wildlife Refuge (upon acquisition of the lands described in section 501), the Secretary of the Interior may—

(1) construct and maintain access foot trails, including pedestrian viewing trails, to provide for public access;

(2) construct an access road for these lands to facilitate law enforcement and ensure public safety;

(3) acquire, or construct, and maintain a fence to provide for wildlife protection;

(4) conduct native plant restoration and wildlife enhancement activities; and

(5) establish a recreation area in the vicinity of Kahili Bay.

(b) CONSTRUCTION REQUIREMENT.—Trails and access roads constructed under this section shall be constructed in a manner consistent with preserving the wild and scenic beauty of the wildlife refuge.

SEC. 503. AUTHORIZATION OF FUNDING.

There is hereby authorized to be appropriated $2,600,000 to carry out the provisions of this title.

TITLE VI—AMENDMENTS TO ACT PROVIDING FOR RESTORATION OF KLAMATH RIVER BASIN FISHERY RESOURCES

SEC. 601. TRAVEL EXPENSES FOR TASK FORCE MEMBERS.

Section 4(i) of the Act entitled "An Act to provide for the restoration of the fishery resources of the Klamath River Basin, and for other purposes" (approved October 27, 1986; 16 U.S.C. 460ss-3(i)) is amended to read as follows:

"(i) EXPENSES.—

"(1) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Task Force, Task Force members shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in the

102 STAT. 3830

Government service are allowed travel expenses under section 5703 of title 5 of the United States Code. Any Task Force member who is an employee of an agency or governmental unit and is eligible for travel expenses from that agency or unit for performing services for the Task Force is not eligible for travel expenses under this paragraph.

"(2) LIMITATION ON SPENDING AUTHORITY.—No money authorized to be appropriated under section 6 may be used to reimburse any agency or governmental unit (whose employees are Task Force members) for time spent by any such employee performing Task Force duties.".

SEC. 602. PROCEDURES OF COUNCIL AND TASK FORCE.

(a) COUNCIL PROCEDURES.—Section 3(g)(1) of such Act of October 27, 1986 (16 U.S.C. 460ss-2(g)(1)) is amended to read as follows:

"(1) PROCEDURES.—The Council shall establish practices and procedures for the carrying out of its functions under subsection (b). The procedures shall include requirements that—

"(A) a quorum of the Council must be present before business may be transacted; and

"(B) no comprehensive plan or recommendation referred to in subsection (b)(1) (A) or (B) may be adopted by the Council except by the unanimous vote of all members present and voting.".

(b) TASK FORCE PROCEDURES.—Section 4(f)(1) of such Act of October 27, 1986 (16 U.S.C. 460ss-3(f)(1)) is amended to read as follows:

"(1) PROCEDURES.—The Task Force shall establish practices and procedures for the carrying out of its functions under subsection (b). The procedures shall include the requirement that a quorum of the Task Force must be present before business may be transacted.".

SEC. 603. CONFORMING AND TECHNICAL AMENDMENTS.

Such Act of October 27, 1986, is further amended as follows:

(1) Sections 3(i) and 4(h) are each amended by striking out "or the State of California" and inserting ", the State of California, or the State of Oregon".

(2) Section 3(j)(1) is amended by adding at the end thereof the following new sentence: "Any Council member who is an employee of an agency or governmental unit and is eligible for travel expenses from that agency or unit for performing services for the Council is not eligible for travel expenses under this paragraph.".

16 USC 460ss-5.

(3) The first sentence of section 6(a) is amended by inserting before the period the following: "and for the payment of travel expenses under sections 3(j) and 4(i)".

(4) Section 6(b)(3) is amended by striking out "volunteers" and all that follows thereafter and inserting "volunteers.".

SEC. 604. SHORT TITLE.

Such Act of October 27, 1986, is further amended by adding at the end thereof the following new section:

Klamath River Basin Fishery Resources Restoration Act. 16 USC 460ss note. California.

"SEC. 8. SHORT TITLE.

"This Act may be cited as the 'Klamath River Basin Fishery Resources Restoration Act'.".

TITLE VII—RUSSIAN RIVER STUDY

102 STAT. 3831

SEC. 701. JOINT FEDERAL-STATE STUDY AND RECOMMENDATIONS.

(a) IN GENERAL.—

(1) STUDY.—Subject to section 703, the Director of the United States Fish and Wildlife Service (hereinafter in this title referred to as the "Director") and the Secretary of the Army (hereinafter in this title referred to as the "Secretary") shall—

(A) jointly undertake a comprehensive study of the fishery resources and fishery habitats of the Russian River (California) basin (hereinafter in this Act referred to as the "basin") and, on the basis of such study, develop goals and short-term and long-term recommended actions for maximizing the restoration and conservation of such resources and habitats;

(B) invite the Director of the Department of Fish and Game of the State of California to participate in undertaking the study and developing recommended actions; and

(C) submit the study and recommended goals and actions to Congress before October 1, 1991.

(2) PARTICIPATION OF DIRECTOR OF CALIFORNIA DEPARTMENT OF FISH AND GAME.—If there is an affirmative response to the invitation extended under paragraph (1)(B), the Director of the Department of Fish and Game of the State of California is authorized to participate jointly with the Director and the Secretary in undertaking the study and developing recommended goals and actions.

(b) MEMORANDUM OF UNDERSTANDING.—The Director, the Secretary, and the Director of the Department of Fish and Game of the State of California, if a joint participant, shall enter into a memorandum of understanding which shall set forth the respective responsibilities of each of the agencies in carrying out the study under this title. The United States Fish and Wildlife Service shall be the lead agency for purposes of carrying out this title.

(c) CONSULTATION.—In carrying out this title, the Director and the Secretary shall, to the maximum extent practicable, consult with the National Marine Fisheries Service, appropriate commercial and recreational fishing interests, affected local governments, and (if the joint participation referred to in subsection (a)(2) is not effected) the Director of the Department of Fish and Game of the State of California.

SEC. 702. STUDY CONTENTS.

The study referred to in section 701 shall include, but is not limited to, the following:

(1) DESCRIPTION OF FISHERY RESOURCES AND HABITATS.—A description of the fishery resources and fishery habitats of the basin that is based, to the maximum extent practicable, on new stream surveys and other field data collected expressly for the study. The description shall include, but not be limited to—

(A) an identification, and an estimate of the extent of utilization, of the existing spawning and rearing areas in the mainstem and tributaries;

(B) an evaluation of the quality and quantity of gravels in the spawning areas in the mainstem and tributaries;

(C) estimates of the instream flow needs for steelhead and chinook salmon in the mainstem and tributaries; 102 STAT. 3832

(D) population estimates of all fish species in the basin that are of sport or commercial value;

(E) an evaluation of the effectiveness of screens on water diversions along the mainstem and tributaries; and

(F) an identification of alternative bank stabilization methods which would allow for growth of shade producing riparian vegetation.

(2) DESCRIPTION OF BASIN AND ANALYSIS.—A description of the basin and an analysis of how its characteristics, and current and planned land and water use practices within the basin, have affected, and can be expected to affect, the fishery resources and fishery habitats of the basin.

(3) HISTORICAL ACCOUNT OF FISHERY RESOURCES AND HABITATS AND ANALYSIS.—A historical account of the fishery resources and fishery habitats of the basin and an analysis of the current status and the trends of such resources and habitats, including an analysis of the existing and projected problems facing such resources and habitats.

(4) EVALUATION OF INFORMATION.—An evaluation of the adequacy of the information that is currently available, and specification of the additional kinds and quantity of information that must be obtained, for purposes of carrying out the conservation and restoration of the fishery resources and the fishery habitats of the basin.

(5) FEDERAL, STATE, AND LOCAL GOVERNMENT ROLES.—A discussion of the respective roles of the Federal, State, and local government authorities that pertain to the conservation and restoration of the fishery resources and fishery habitats of the basin, with particular attention being given to the fishery management plans and responsibilities of such authorities and the relationship of such plans with applicable private fishery management plans.

SEC. 703. COST SHARING.

(a) REQUIREMENT FOR SHARING.—The State of California may not jointly participate in undertaking the study referred to in section 701 or in developing goals and recommended actions unless the Director is satisfied that the State of California will pay, on a basis considered timely and appropriate by the Director and from non-Federal sources, one-third of the cost of the study.

(b) IN-KIND CONTRIBUTIONS.—In addition to cash outlays, the Director shall consider as payment by the State of California under subsection (a) the value of in-kind contributions and personal property provided by, or on behalf of, the State for purposes of carrying out the study. Valuations made by the Director under this subsection are final and not subject to judicial review.

(c) IN-KIND CONTRIBUTIONS.—For purposes of subsection (b), in-kind contributions may be in the form of personal services rendered by volunteers.

(d) REGULATIONS.—The Director shall by regulation establish—

(1) the training, experience, and other qualifications which such volunteers must have in order for their services to be considered as in-kind contributions; and

(2) the standards under which the Director will determine the value of in-kind contributions and real and personal property for purposes of subsection (b).

102 STAT. 3833

(e) LIMITATION.—The Director may not consider the expenditure, either directly or indirectly, with respect to the study of Federal moneys received by the State of California or any local government of such State to be a financial contribution from a non-Federal source to carry out the study.

SEC. 704. AUTHORIZATION OF APPROPRIATIONS.

For carrying out this Act there are authorized to be appropriated to the Director and to the Secretary a total of not more than $2,000,000 for fiscal years 1990 and 1991.

TITLE VIII—AMENDMENTS TO THE FISH AND WILDLIFE CONSERVATION ACT OF 1980

SEC. 801. AUTHORIZATION OF APPROPRIATIONS.

Section 11 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2910) is amended by striking "and 1988." and inserting in lieu thereof "1988, 1989, and 1990.".

SEC. 802. FEDERAL CONSERVATION OF MIGRATORY NONGAME BIRDS.

After section 12 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2910), add the following new section:

16 USC 2912.

"SEC. 13. FEDERAL CONSERVATION OF MIGRATORY NONGAME BIRDS.

Research and development.

"(a) CONSERVATION ACTIVITIES.—The Secretary shall undertake the following research and conservation activities, in coordination with other Federal, State, international and private organizations, to assist in fulfilling his responsibilities to conserve migratory

compliance by the Secretary of the Army with the requirement of paragraph (3) hereof.".

SEC. 903. AMENDMENT TO THE NATIONAL F'SH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT.

Section 5 of the Act of March 26, 1984 (16 U.S.C. 3704), otherwise known as the "National Fish and Wildlife Foundation Establishment Act", is amended by inserting the following at the end of section 5: "Notwithstanding any other provision of this section, the Secretary of the Interior is authorized to continue to provide facilities, and necessary support services for such facilities, to the National Fish and Wildlife Foundation after March 26, 1989, on a space available, reimbursable cost basis.".

SEC. 904. AMENDMENT TO THE NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966.

Subsection (e) of section 4 of the Act of October 15, 1966 (16 U.S.C. 668dd(e)), otherwise known as the "National Wildlife Refuge System Administration Act of 1966", is amended by striking "thereunder" and all that follows through the end of the sentence and inserting in lieu thereof "thereunder shall be fined under title 18, United States Code, or imprisoned for not more than 1 year, or both.".

102 STAT. 3835

SEC. 905. TECHNICAL CORRECTION.

Section 9(d)(1)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1538(d)(1)(A)), as amended by the African Elephant Conservation Act, is amended further by striking "recreational purposes); or" and inserting in lieu thereof "recreational purposes) or plants; or".

TITLE X—PROTECTION OF MASSACHUSETTS BAY

Massachusetts Bay Protection Act of 1988. Environmental protection. 33 USC 1251 note.

SEC. 1001. SHORT TITLE.

This title may be cited as the "Massachusetts Bay Protection Act of 1988".

33 USC 1330 note.

SEC. 1002. DEFINITION.

For purposes of this title, the term "Massachusetts Bay" includes Massachusetts Bay, Cape Cod Bay, and Boston Harbor, consisting of an area extending from Cape Ann, Massachusetts south to the northern reach of Cape Cod, Massachusetts.

33 USC 1330 note.

SEC. 1003. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) Massachusetts Bay comprises a single major estuarine and oceanographic system extending from Cape Ann, Massachusetts south to the northern reaches of Cape Cod, encompassing Boston Harbor, Massachusetts Bay, and Cape Cod Bay;

(2) several major riverine systems, including the Charles, Neponset, and Mystic Rivers, drain the watersheds of eastern Massachusetts into the Bay;

(3) the shorelines of Massachusetts Bay, first occupied in the middle 1600's, are home to over 4 million people and support a thriving industrial and recreational economy;

(4) Massachusetts Bay supports important commercial fisheries, including lobsters, finfish, and shellfisheries, and is home to or frequented by several endangered species and marine mammals;

(5) Massachusetts Bay also constitutes an important recreational resource, providing fishing, swimming, and boating opportunities to the region;

(6) rapidly expanding coastal populations and pollution pose increasing threats to the long-term health and integrity of Massachusetts Bay;

(7) while the cleanup of Boston Harbor will contribute significantly to improving the overall environmental quality of Massachusetts Bay, expanded efforts encompassing the entire ecosystem will be necessary to ensure its long-term health;

(8) the concerted efforts of all levels of Government, the private sector, and the public at large will be necessary to protect and enhance the environmental integrity of Massachusetts Bay; and

(9) the designation of Massachusetts Bay as an Estuary of National Significance and the development of a comprehensive plan for protecting and restoring the Bay may contribute significantly to its long-term health and environmental integrity.

102 STAT. 3836

(b) PURPOSE.—The purpose of this title is to protect and enhance the environmental quality of Massachusetts Bay by providing for its designation as an Estuary of National Significance and by providing for the preparation of a comprehensive restoration plan for the Bay.

SEC. 1004. DESIGNATION AS ESTUARY OF NATIONAL SIGNIFICANCE.

Section 320(a)(2)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1330(a)(2)(B)) is amended by inserting "Massachusetts Bay, Massachusetts (including Cape Cod Bay and Boston Harbor);" after "Buzzards Bay, Massachusetts;".

SEC. 1005. FUNDING SOURCES.

33 USC 1330 note.

Within one year of enactment, the Administrator of the United States Environmental Protection Agency and the Governor of Massachusetts shall undertake to identify and make available sources of funding to support activities pertaining to Massachusetts Bay undertaken pursuant to or authorized by section 320 of the Clean Water Act, and shall make every effort to coordinate existing research, monitoring or control efforts with such activities.

Approved November 14, 1988.

LEGISLATIVE HISTORY—H.R. 4030:

HOUSE REPORTS: No. 100-732 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 100-563 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, cons.dered and passed House.
Oct. 14, considered and passed Senate, amended.
Oct. 19, House concurred in Senate amendments.

Public Law 100-666
100th Congress

102 STAT. 3929

An Act

To reauthorize housing relocation under the Navajo-Hopi Relocation Program, and for other purposes.

Nov. 16, 1988
[S. 1236]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Navajo and Hopi Indian Relocation Amendments of 1988.
25 USC 640d note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Navajo and Hopi Indian Relocation Amendments of 1988".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Subsection (a) of section 25 of Public Law 93-531 (25 U.S.C. 640d-24(a)) is amended—

(1) by striking out "$7,700,000" in paragraph (4) and inserting in lieu thereof "$13,000,000", and

(2) by striking out "$15,000,000 annually for fiscal years 1983 through 1987" in paragraph (8) and inserting in lieu thereof "$30,000,000 annually for fiscal years 1989, 1990, and 1991".

USE OF DISCRETIONARY FUNDS

SEC. 3. Subsection (b) of section 27 of Public Law 93-531 (25 U.S.C. 640d-25) is amended to read as follows:

"(b) Funds appropriated under the authority of subsection (a) may be used by the Commissioner for grants, contracts, or expenditures which significantly assist the Commissioner or assist the Navajo Tribe or Hopi Tribe in meeting the burdens imposed by this Act.".

COMMISSIONER ON NAVAJO AND HOPI INDIAN RELOCATION

SEC. 4. (a) Section 12 of Public Law 93-531 (25 U.S.C. 640d-11) is amended to read as follows:

"(a) There is hereby established as an independent entity in the executive branch the Office of Navajo and Hopi Indian Relocation which shall be under the direction of the Commissioner on Navajo and Hopi Relocation (hereinafter in this Act referred to as the 'Commissioner').

President of U.S.

"(b)(1) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate.

"(2) The term of office of the Commissioner shall be 2 years. An individual may be appointed Commissioner for more than one term.

"(3) The Commissioner shall be a full time employee of the United States and shall be paid at the rate of GS-18 of the General Schedule under section 5332 of title 5, United States Code.

"(c)(1)(A) Except as otherwise provided by the Navajo and Hopi Indian Relocation Amendments of 1988, the Commissioner shall

102 STAT. 3930

have all the powers and be responsible for all the duties that the Navajo and Hopi Indian Relocation Commission had before the enactment of such amendments.

"(B) All funds appropriated to the Navajo and Hopi Indian Relocation Commission before the date on which the first Commissioner on Navajo and Hopi Indian Relocation is confirmed by the Senate that have not been expended on such date shall become available to the Office of Navajo and Hopi Indian Relocation on such date and shall remain available without fiscal year limitation.

"(2) There are hereby transferred to the Commissioner, on January 31, 1989—

"(A) all powers and duties of the Bureau of Indian Affairs derived from Public Law 99-190 (99 Stat. at 1236) that relate to the relocation of members of the Navajo Tribe from lands partitioned to the Hopi Tribe, and

"(B) all funds appropriated for activities relating to such relocation pursuant to Public Law 99-190 (99 Stat. at 1236): *Provided*, That such funds shall be used by the Commissioner for the purpose for which such funds were appropriated to the Bureau of Indian Affairs.

"(d)(1) The Commissioner shall have the power to—

"(A) appoint and fix the compensation of such staff and personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

"(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

Contracts.

"(2) The authority of the Commissioner to enter into contracts for the provision of legal services for the Commissioner or for the Office of Navajo and Hopi Indian Relocation shall be subject to the availability of funds provided for such purpose by appropriations Acts.

Appropriation authorization.

"(3) There are authorized to be appropriated for each fiscal year $100,000 to fund contracts described in paragraph (2).

"(e)(1) The Commissioner is authorized to provide for the administrative, fiscal, and housekeeping services of the Office of Navajo and

among the parties in the United States District Court for the Southern District of California and the Federal Energy Regulatory Commission; and

(2) stipulated judgments or other appropriate final dispositions have been entered in said proceedings.

SEC. 105. SAN LUIS REY TRIBAL DEVELOPMENT FUND.

(a) ESTABLISHMENT OF FUND.—There is hereby established within the Treasury of the United States the "San Luis Rey Tribal Development Fund".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) There is authorized to be appropriated to the San Luis Rey Tribal Development Fund $30,000,000, together with interest accruing from the date of enactment of this Act at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding Federal obligations of comparable maturity. Following execution of the settlement agreement, judgments, and other appropriate final dispositions specified in section 104, the Secretary of the Treasury shall allocate and make available such monies from the trust fund as are requested by the Indian Water Authority.

(2) Any monies not allocated to the Indian Water Authority and remaining in the fund authorized by this section shall be invested by the Secretary of the Treasury in interest-bearing deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162a). Such interest shall be made available to the Indian Water Authority in the same manner as the monies identified in paragraph (1).

SEC. 106. DUTIES OF THE UNITED STATES FOR DEVELOPMENT OF SUPPLEMENTAL WATER.

(a) OBLIGATION TO ARRANGE FOR DEVELOPMENT OF WATER FOR BANDS AND LOCAL ENTITIES.—To provide a supplemental water supply for the benefit of the Bands and the local entities, subject to the provisions of the settlement agreement, the Secretary is authorized and directed to:

(1) arrange for the development of not more than a total of 16,000 acre-feet per year of supplemental water from public lands within the State of California outside the service area of the Central Valley Project; or

(2) arrange to obtain not more than a total of 16,000 acre-feet per year either from water conserved by the works authorized in title II of this Act, or through contract with the Metropolitan Water District of Southern California.

Nothing in this section or any other provision of this title shall authorize the construction of any new dams, reservoirs or surface water storage facilities.

(b) AUTHORITY TO UTILIZE EXISTING PROGRAMS AND PUBLIC LANDS.—To carry out the provisions of subsection (a), the Secretary may, subject to the rights and interests of other parties and to the extent consistent with the requirements of the laws of the State of California and such other laws as may be applicable:

102 STAT. 4003

(1) utilize existing programs and authorities; and

(2) permit water to be pumped from beneath public lands and, in conjunction therewith, authorize a program to recharge some or all of the groundwater that is so pumped.

(c) TERMS AND CONDITIONS OF WATER DELIVERIES.—Such supplemental water shall be provided for use by the Bands on their reservation and the local entities in their service areas pursuant to the terms of the settlement agreement and shall be delivered at locations, on a schedule and under terms and conditions to be agreed upon by the Secretary, the Indian Water Authority, the local entities and any agencies participating in the delivery of the water. It may be exchanged for water from other sources for use on the Bands' reservations or in the local entities' service areas.

(d) COST OF DEVELOPING AND DELIVERING WATER.—The cost of developing and delivering supplemental water pursuant to this

nongame birds under existing authorities provided by the Migratory Bird Treaty Act and Migratory Bird Conservation Act (16 U.S.C. 701-715) and section 8A(e) of the Endangered Species Act (16 U.S.C. 1537A(e)) implementing the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere:

"(1) monitor and assess population trends and status of species, subspecies, and populations of all migratory nongame birds;

"(2) identify the effects of environmental changes and human activities on species, subspecies, and populations of all migratory nongame birds;

"(3) identify species, subspecies, and populations of all migratory nongame birds that, without additional conservation actions, are likely to become candidates for listing under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543); and

"(4) identify conservation actions to assure that species, subspecies, and populations of migratory nongame birds identified under paragraph (3) do not reach the point at which the measures provided pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543) become necessary.

"(b) REPORTS.—Within one year after the date of enactment of this Act, and at five year intervals thereafter, the Secretary shall prepare a report that presents the results of the activities taken pursuant to subsection (a) of this section and that describes any efforts to carry out those conservation actions identified pursuant to paragraph (4) of subsection (a) of this section. Such reports shall be submitted to the Committee on Environment and Public Works of the United States Senate and to the Committee on Merchant Marine and Fisheries of the United States House of Representatives.". 102 STAT. 3834

TITLE IX—MISCELLANEOUS AMENDMENTS

SEC. 901. RELINQUISHMENT OF EXCLUSIVE LEGISLATIVE JURISDICTION.

State and local governments. Territories, U.S. 16 USC 742m.

Notwithstanding any other provision of law, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, may relinquish to a State, or to a Commonwealth, territory, or possession of the United States, the exclusive legislative jurisdiction of the United States over all or part of any United States Fish and Wildlife Service lands or interests therein, including but not limited to National Wildlife Refuge System and National Fish Hatchery System lands, in that State, Commonwealth, territory, or possession. Relinquishment of exclusive legislative jurisdiction under this subsection may be accomplished (1) by filing with the Governor (or, if none, the chief executive officer) of the State, Commonwealth, territory, or possession concerned, a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State, Commonwealth, territory, or possession may otherwise provide.

SEC. 902. REMOVAL OF THE A. REGINA.

Section 1115 of the Water Resources Development Act of 1986, Public Law 99-662 (1986), 100 Stat. 4235, shall be amended by striking the final period thereof and by adding thereafter the following: ": *Provided*, That, in furtherance of the work authorized by paragraph (3) hereof, and conditioned on successful removal of the A. Regina, the Secretary of the Army is hereby authorized to transfer upon such conditions as he shall deem fit the title to a Delong Pier Jack-Up Barge Type A, serial number BPA6814, directly to any entity, including any private corporation to be used to assist in the removal of the wreck of the said A. Regina. Procedures otherwise governing the disposal of government property, shall not apply to the above authorized transfer of title. The foregoing actions shall be at no cost to the United States, and shall constitute full

Hopi Indian Relocation and is authorized to call upon any department or agency of the United States to assist him in implementing the relocation plan, except that the control over and responsibility for completing relocation shall remain in the Commissioner. In any case in which the Office calls upon any such department or agency for assistance under this section, such department or agency shall provide reasonable assistance so requested.

"(2) On failure of any agency to provide reasonable assistance as required under paragraph (1) of this subsection, the Commissioner shall report such failure to the Congress.

"(f) The Office of Navajo and Hopi Indian Relocation shall cease to exist when the President determines that its functions have been fully discharged.".

(b) Public Law 93-531 is amended by striking out "the Commission" each place it appears and inserting in lieu thereof "the Commissioner". 25 USC 640d *et seq.*

(c)(1) Notwithstanding any other provisions of law or any amendment made by this Act— 25 USC 640d-11 note.

102 STAT. 3931

(A) the Navajo and Hopi Indian Relocation Commission shall—

(i) continue to exist until the date on which the first Commissioner is confirmed by the Senate,

(ii) have the same structure, powers and responsibilities such Commission had before the enactment of this Act, and

(iii) assume responsibility for the powers and duties transferred to such Commissioner under section 12(c)(2) of Public Law 93-531, as amended by this Act, until the Commissioner is confirmed,

(B) the existing Commissioners shall serve until the new Commissioner is confirmed by the Senate, and

(C) the existing personnel of the Commission shall be transferred to the new Office of Navajo and Hopi Indian Relocation.

(2) The Navajo and Hopi Relocation Commission shall become known as the Office of Navajo and Hopi Indian Relocation on the date on which the first Commissioner is confirmed by the Senate.

(d) Section 13 of Public Law 93-531 (25 U.S.C. 640d-12) is amended to read as follows:

"(a) By no later than the date that is 6 months after the date on which the first Commissioner is confirmed by the Senate, the Commissioner shall prepare and submit to the Congress a report concerning the relocation of households and members thereof of each tribe and their personal property, including livestock, from lands partitioned to the other tribe pursuant to this Act. Reports.

"(b) The report required under subsection (a) shall contain, among other matters, the following:

"(1) the names of all members of the Navajo Tribe who reside within the areas partitioned to the Hopi Tribe and the names of all members of the Hopi Tribe who reside within the areas partitioned to the Navajo Tribe;

"(2) the names of all other members of the Navajo Tribe, and other members of the Hopi Tribe, who are eligible for benefits provided under this Act and who have not received all the benefits for which such members are eligible under this Act;

"(3) the fair market value of the habitations and improvements owned by the heads of households identified by the Commissioner is being among the persons named in clause (1) of this subsection; and

"(4) a report on how funds in the Navajo Rehabilitation Trust Funds will be expended to carry out the purposes described in section 32(d).".

LOBBYING

SEC. 5. Public Law 93-531 is amended by adding at the end thereof the following new section:

"SEC. 31. (a) Except as provided in subsection (b), no person or entity who has entered into a contract with the Commissioner to 25 USC 640d-29.

provide services under this Act may engage in activities designed to influence Federal legislation on any issue relating to the relocation required under this Act.

"(b) Subsection (a) shall not apply to the Navajo Tribe or the Hopi Tribe, except that such tribes shall not spend any funds received from the Office in any activities designed to influence Federal legislation.".

102 STAT. 3932

NEW DEVELOPMENT ON CERTAIN LANDS

SEC. 6. Subsection (f) of section 10 of Public Law 93-531 (25 U.S.C. 640d-9(f)) is amended—

(1) by striking out "Any development" and inserting in lieu thereof "(1) Any development", and

(2) by adding at the end thereof the following new paragraphs:

"(2) Each Indian tribe which receives a written request for the consent of the Indian tribe to a particular improvement, construction, or other development on the lands to which paragraph (1) applies shall respond in writing to such request by no later than the date that is 30 days after the date on which the Indian tribe receives the request. If the Indian tribe refuse to consent to the improvement, construction, or other development, the response shall include the reasons why consent is being refused.

"(3)(A) Paragraph (1) shall not apply to any improvement, construction, or other development if—

"(i) such improvement, construction, or development does not involve new housing construction, and

Public health and safety.

"(ii) after the Navajo Tribe or Hopi Tribe has refused to consent to such improvement, construction, or development (or after the close of the 30-day period described in paragraph (2), if the Indian tribe does not respond within such period in writing to a written request for such consent), the Secretary of the Interior determines that such improvement, construction, or development is necessary for the health or safety of the Navajo Tribe, the Hopi Tribe, or any individual who is a member of either tribe.

Public health and safety.

"(B) If a written request for a determination described in subparagraph (A)(ii) is submitted to the Secretary of the Interior after the Navajo Tribe or Hopi Tribe has refused to consent to any improvement, construction, or development (or after the close of the 30-day period described in paragraph (2), if the Indian tribe does not respond within such period in writing to a written request for such consent), the Secretary shall, by no later than the date that is 45 days after the date on which such request is submitted to the Secretary, determine whether such improvement, construction, or development is necessary for the health or safety of the Navajo Tribe, the Hopi Tribe, or any individual who is a member of either Tribe.

Courts, U.S. Arizona.

"(C) Any development that is undertaken pursuant to this section shall be without prejudice to the rights of the parties in the civil action pending before the United States District Court for the District of Arizona commenced pursuant to section 8 of this Act, as amended.".

NAVAJO REHABILITATION TRUST FUND

SEC. 7. Public Law 93-531 is amended by adding at the end thereof the following new section:

25 USC 640d-30.

"SEC. 32. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the 'Navajo Rehabilitation Trust Fund', which shall consist of the funds transferred under subsection (b) and of the funds appropriated pursuant to subsection (f) and any interest or investment income accrued on such funds.

"(b) All of the net income derived by the Navajo Tribe from the surface and mineral estates of lands located in New Mexico that are

acquired for the benefit of the Navajo Tribe under section 11 shall be deposited into the Navajo Rehabilitation Trust Fund. 102 STAT. 3933

"(c) The Secretary shall be the trustee of the Navajo Rehabilitation Trust Fund and shall be responsible for investment of the funds in such Trust Fund.

"(d) Funds in the Navajo Rehabilitation Trust Fund, including any interest or investment accruing thereon, shall be available to the Navajo Tribe, with the approval of the Secretary, solely for purposes which will contribute to the continuing rehabilitation and improvement of the economic, educational, and social condition of families, and Navajo communities, that have been affected by—

"(1) the decison in the Healing case, or related proceedings,

"(2) the provision of this Act, or

"(3) the establishment by the Secretary of the Interior of grazing district number 6 as land for the exclusive use of the Hopi Tribe.

"(e) The Navajo Rehabilitation Trust Fund shall terminate when, upon petition by the Navajo Tribe, the Secretary determines that the goals of the Trust Fund have been met and the United States has been reimbursed for funds appropriated under subsection (f). All funds in the Trust Fund on such date shall be transferred to the general trust funds of the Navajo Tribe.

"(f) There is hereby authorized to be appropriated for the Navajo Rehabilitation Trust Fund not exceed $10,000,000 in each of fiscal years 1990, 1991, 1992, 1993, 1994 and 1995. The income from the land referred to in subsection (b) of this section shall be used to reimburse the General Fund of the United States Treasury for amounts appropriated to the Fund.". Appropriation authorization.

LANDS TRANSFERRED OR ACQUIRED FOR THE NAVAJO TRIBE

SEC. 8. Subsection (h) of section 11 of Public Law 93-531 (25 U.S.C. 640d-10(h)) is amended by striking out "the date of this subsection who are awaiting relocation under this Act" and inserting in lieu thereof "the date of enactment of this Act: *Provided*, That the sole authority for final planning decisions regarding the development of lands acquired pursuant to this Act shall rest with the Commissioner until such time as the Commissioner has discharged his statutory responsibility under this Act".

PROVISION OF ATTORNEY FEES FOR THE SAN JUAN SOUTHERN PAIUTE TRIBE

SEC. 9. (a) Subsection (e) of section 8 of Public Law 93-531 (25 U.S.C. 640d-7(e)) is amended by inserting a comma and the words "San Juan Southern Paiute" after the word "Navajo".

(b) Section 8 of Public Law 93-531 is amended by adding at the end thereof the following new subsection:

"(f)(1) Any funds made available for the San Juan Southern Paiute Tribe to pay for attorney's fees shall be paid directly to the tribe's attorneys of record until such tribe is acknowledged as an Indian tribe by the United States: *Provided*, That the tribe's eligibility for such payments shall cease once a decision by the Secretary of the Interior declining to acknowledge such tribe becomes final and no longer appealable.

"(2) Nothing in this subsection shall be interpreted as a congressional acknowledgement of the San Juan Southern Paiute as an Indian tribe or as affecting in any way the San Juan Southern Paiute Tribe's Petition for Recognition currently pending with the Secretary of the Interior. 102 STAT. 3934

"(3) There is hereby authorized to be appropriated not to exceed $250,000 to pay for the legal expenses incurred by the Southern Paiute Tribe on legal action arising under this section prior to enactment of the Navajo and Hopi Indian Relocation Amendments of 1988.". Appropriation authorization.

SEC. 10. Section 15 of Public Law 93-531 is amended by adding the following new subsection (g) at the end thereof: 25 USC 640d-14.

Courts, U.S.
Arizona.

"(g) Notwithstanding any other provision of law, appeals from any eligibility determination of the Relocation Commission, irrespective of the amount in controversy, shall be brought in the United States District Court for the District of Arizona.".

Approved November 16, 1988.

LEGISLATIVE HISTORY—S. 1236:

HOUSE REPORTS: No. 100-1032 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-425 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 8, considered and passed Senate.
Oct. 3, 4, considered and passed House, amended.
Oct. 13, Senate concurred in House amendments.

102 STAT. 4000 Public Law 100-675
100th Congress

An Act

Nov. 17, 1988
[S. 795]

To provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, to authorize the lining of the All American Canal, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

San Luis Rey
Indian Water
Rights
Settlement Act.

TITLE I—SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "San Luis Rey Indian Water Rights Settlement Act".

SEC. 102. DEFINITIONS.

For purposes of this title:

(1) BANDS.—The term "Bands" means the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians which are recognized by the Secretary of the Interior as the governing bodies of their respective reservations in San Diego County, California.

(2) FUND.—The term "Fund" means the San Luis Rey Tribal Development Fund established by section 105.

(3) INDIAN WATER AUTHORITY.—The term "Indian Water Authority" means the San Luis Rey River Indian Water Authority, an intertribal Indian entity established by the Bands.

(4) LOCAL ENTITIES.—The term "local entities" means the city of Escondido, California; the Escondido Mutual Water Company; and the Vista Irrigation District.

(5) SETTLEMENT AGREEMENT.—The term "settlement agreement" means the agreement to be entered into by the United States, the Bands, and the local entities which will resolve all claims, controversies, and issues involved in all the pending proceedings among the parties.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) SUPPLEMENTAL WATER.—The term "supplemental water" means water from a source other than the San Luis Rey River.

SEC. 103. CONGRESSIONAL FINDINGS; LOCAL CONTRIBUTIONS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Reservations established by the United States for the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians on or near the San Luis Rey River in San Diego County, California, need a reliable source of water.

(2) Diversions of water from the San Luis Rey River for the benefit of the local entities commenced in the early 1890s and 102 STAT. 4001
continue to be an important source of supply to those communities.

(3) The inadequacy of the San Luis Rey River to supply the needs of both the Bands and the local entities has given rise to litigation to determine the rights of various parties to water from the San Luis Rey River.

(4) The pendency of the litigation has—

(A) severely impaired the Bands' efforts to achieve economic development on their respective reservations,

(B) contributed to the continuation of high rates of unemployment among the members of the Bands,

(C) increased the extent to which the Bands are financially dependent on the Federal Government, and

(D) impeded the Bands and the local entities from taking effective action to develop and conserve scarce water resources and to preserve those resources for their highest and best uses.

(5) In the absence of a negotiated settlement—

(A) the litigation, which was initiated almost 20 years ago, is likely to continue for many years,

(B) the economy of the region and the development of the reservations will continue to be adversely affected by the water rights dispute, and

(C) the implementation of a plan for improved water management and conservation will continue to be delayed.

(6) An agreement in principle has been reached under which a comprehensive settlement of the litigation would be achieved, the Bands' claims would be fairly and justly resolved, the Federal Government's trust responsibility to the Bands would be fulfilled, and the local entities and the Bands would make fair and reasonable contributions.

(7) The United States should contribute to the settlement by providing funding and delivery of water from a supplemental source. Water developed through conjunctive use of groundwater on public lands in southern California or water to be reclaimed from lining the previously unlined portions of the All American Canal can provide an appropriate supplemental water source.

(b) PURPOSE.—It is the purpose of this title to provide for the settlement of the reserved water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, in a fair and just manner which—

(1) provides the Bands with a reliable water supply sufficient to meet their present and future needs;

(2) promotes conservation and the wise use of scarce water resources in the upper San Luis Rey River System;

(3) establishes the basis for a mutually beneficial, lasting, and cooperative partnership among the Bands and the local entities to replace the adversary relationships that have existed for several decades; and

(4) fosters the development of an independent economic base for the Bands.

SEC. 104. SETTLEMENT OF WATER RIGHTS DISPUTE.

Sections 106 and 109 of this Act shall take effect only when—

(1) the United States; the City of Escondido, California; the Escondido Mutual Water Company; the Vista Irrigation Dis- 102 STAT. 4002
trict; and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians have entered into a settlement agreement providing for the complete resolution of all claims, controversies, and issues involved in all of the pending proceedings

section shall not be borne by the United States, and no Federal appropriations are authorized for this purpose.

(e) REPORT TO CONGRESS.—Notwithstanding the provisions of section 104, within nine months following enactment of this Act, the Secretary shall report to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate on (1) the Secretary's recommendations for providing a supplemental water source including a description of the works, their costs and impacts, and the method of financing; and (2) the proposed form of contract for delivery of supplemental water to the Bands and the local entities. When 60 calendar days have elapsed following submission of the Secretary's report, the Secretary shall execute the necessary contracts and carry out the recommended program unless otherwise directed by the Congress. Contracts.

SEC. 107. ESTABLISHMENT, STATUS, AND GENERAL POWERS OF SAN LUIS REY RIVER INDIAN WATER AUTHORITY.

(a) ESTABLISHMENT OF INDIAN WATER AUTHORITY APPROVED AND RECOGNIZED.—

(1) IN GENERAL.—The establishment by the Bands of the San Luis Rey River Indian Water Authority as a permanent intertribal entity pursuant to duly adopted ordinances and the power of the Indian Water Authority to act for the Bands are hereby recognized and approved.

(2) LIMITATION ON POWER TO AMEND OR MODIFY ORDINANCES.—Any proposed modification or repeal of any ordinance referred to in paragraph (1) must be approved by the Secretary, except that no such approval may be granted unless the Secretary finds that the proposed modification or repeal will not interfere with or impair the ability of the Indian Water Authority to carry out its responsibilities and obligations pursuant to this Act and the settlement agreement.

(b) STATUS AND GENERAL POWERS OF INDIAN WATER AUTHORITY.—

(1) STATUS AS INDIAN ORGANIZATION.—To the extent provided in the ordinances of the Bands which established the Indian Water Authority, such Authority shall be treated as an Indian entity under Federal law with which the United States has a trust relationship.

(2) POWER TO ENTER INTO AGREEMENTS.—The Indian Water Authority may enter into such agreements as it may deem necessary to implement the provisions of this title and the settlement agreement.

102 STAT. 4004

(3) INVESTMENT POWER.—Notwithstanding paragraph (1) or any other provision of law, the Indian Water Authority shall have complete discretion to invest and manage its own funds: *Provided*, That the United States shall not bear any obligation or liability regarding the investment, management or use of such funds.

(4) LIMITATION ON SPENDING AUTHORITY.—All funds of the Indian Water Authority which are not required for administrative or operational expenses of the Authority or to fulfill obligations of the Authority under this title, the settlement agreement, or any other agreement entered into by the Indian Water Authority shall be invested or used for economic development of the Bands, the Bands' reservation lands, and their members. Such funds may not be used for per capita payments to members of any Band.

(c) INDIAN WATER AUTHORITY TREATED AS TRIBAL GOVERNMENT FOR CERTAIN PURPOSES.—The Indian Water Authority shall be considered to be an Indian tribal government for purposes of section 7871(a)(4) of the Internal Revenue Code of 1986.

SEC. 108. DELEGATION OF AUTHORITY.

The Secretary and the Attorney General of the United States, acting on behalf of the United States, and the Bands, acting through Contracts.

their duly authorized governing bodies, are authorized to enter into the settlement agreement. The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may deem necessary or appropriate to fulfill the provisions of this title.

SEC. 109. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION AND THE SECRETARY OF THE INTERIOR OVER POWER FACILITIES AND GOVERNMENT AND INDIAN LANDS.

(a) POWER FACILITIES.—Any license issued under the Act of June 10, 1920 (16 U.S.C. 791a et seq., commonly referred to as Part I of the Federal Power Act) for any part of the system that diverts the waters of the San Luis Rey River originating above the intake to the Escondido Canal—

(1) shall be subject to all of the terms, conditions, and provisions of the settlement agreement and this title; and

(2) shall not in any way interfere with, impair or affect the ability of the Bands, the local entities and the United States to implement, perform, and comply fully with all of the terms, conditions, and provisions of the settlement agreement.

(b) INDIAN AND GOVERNMENT LANDS.—Notwithstanding any provision of Part I of the Federal Power Act to the contrary, the Secretary is exclusively authorized, subject to subsection (c), to lease, grant rights-of-way across, or transfer title to, any Indian tribal or allotted land, or any other land subject to the authority of the Secretary, which is used, or may be useful, in connection with the operation, maintenance, repair, or replacement of the system to divert, convey, and store the waters of the San Luis Rey River originating above the intake to the Escondido Canal or the supplemental water supplied by the Secretary under this Act.

(c) APPROVAL BY INDIAN BANDS; COMPENSATION TO INDIAN OWNERS.—Any disposition of Indian tribal or allotted land by the Secretary under the subsection (b) shall be subject to the approval of the governing Indian Band. Any individual Indian owner or allottee whose land is disposed of by any action of the Secretary under subsection (b) shall be entitled to receive just compensation.

102 STAT. 4005

SEC. 110. RULES OF CONSTRUCTION.

(a) EMINENT DOMAIN.—No provision of this title shall be construed as authorizing the acquisition by the Federal Government of any water or power supply or any water conveyance or power transmission facility through the power of eminent domain or any other nonconsensual arrangement.

(b) STATUS AND AUTHORITY OF INDIAN WATER AUTHORITY.—No provision of this title shall be construed as creating any implication with respect to the status or authority which the Indian Water Authority would have under any other law or rule of law in the absence of this title.

SEC. 111. COMPLIANCE WITH BUDGET ACT.

To the extent any provision of this title provides new spending authority described in section 401(c)(2)(A) of the Congressional Budget Act of 1974, such authority shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—ALL AMERICAN CANAL LINING

SEC. 201. CONGRESSIONAL FINDINGS.

Congress hereby finds and declares that:

(1) The Boulder Canyon Project Act ("Project Act") was enacted to conserve the waters of the lower Colorado River for a number of public purposes, including the storage and delivery of water for reclamation of public lands and other uses exclusively within the United States.

(2) The Secretary of the Interior ("Secretary") was authorized by the Project Act to construct what is now Hoover Dam, Lake

Mead, and the All American Canal and "to contract for the storage of water in said reservoir and for the delivery thereof at such points on the river and on said canal as may be agreed upon . . .".

(3) The Project Act provides that "no person shall have or be entitled to have the use for any purpose of the water stored as aforesaid except by contract" and in California the Secretary has entered into water delivery contracts with public agencies.

(4) The Secretary's water delivery contracts incorporate the Seven Party Agreement of August 18, 1931, under which water that is not applied to beneficial use by a California Contractor is available for use by the California Contractor with the next priority.

(5) The available supply of Colorado River water in California is insufficient to meet the priorities set forth in the Seven Party Agreement.

(6) The Secretary's water delivery contracts with the California Contractors provide that the total beneficial consumptive use under the first three priorities established in the contracts shall not exceed 3.85 million acre-feet of water per year.

(7) The rights of all California Contractors are defined by the Project Act, their contracts, and decisions and decrees of the United States Supreme Court.

(8) The Secretary has promulgated regulations pursuant to his authority under the Project Act establishing procedures to assure that deliveries of Colorado River water to each user will not exceed those reasonably required for its beneficial use.

(9) The Secretary has constructed the All American Canal and delivers water to the Imperial Irrigation District and Coachella Valley Water District under water delivery contracts by which those districts are entitled to receive deliveries of water in amounts reasonably required for potable and irrigation purposes.

(10) Studies conducted by the Secretary show that significant quantities of water currently delivered into the All American Canal and its Coachella Branch are lost by seepage from the canals and that such losses could be reduced or eliminated by lining these canals.

SEC. 202. DEFINITIONS.

As used in this title, the term—

(1) "All American Canal Service Area" shall mean the Imperial Service Area and the Coachella Service Area as defined in the Imperial Irrigation District and Coachella Valley Water District water delivery contracts with the Secretary dated December 1, 1932, and October 14, 1934, respectively.

(2) "California Contractors" shall mean the Palo Verde Irrigation District; Imperial Irrigation District; Coachella Valley Water District; and, The Metropolitan Water District of Southern California.

(3) "Participating Contractor" shall mean a California Contractor who elects to participate in, and fund, all or a portion of the works described in section 203 of this title.

(4) "Project Act" shall mean the Boulder Canyon Project Act (45 Stat. 1057; 43 U.S.C. 617-617t).

(5) "Secretary" shall mean the Secretary of the Interior.

(6) "Seven Party Agreement" shall mean that agreement dated August 18, 1931, providing the schedule of priorities for use of the waters of the Colorado River within California as published in section 6 of the General Regulations of the Secretary of the Interior dated September 28, 1931, and incorporated in the Secretary's water delivery contracts with the California Contractors.

(7) "Works" shall mean the facilities and measures specified in section 203(a) of this title.

SEC. 203. AUTHORIZATION OF PROJECT.

(a) CANAL LINING AUTHORIZED.—The Secretary, in order to reduce the seepage of water, is authorized to—

Public health and safety.

(1) construct a new lined canal or to line the previously unlined portions of the All American Canal from the vicinity of Pilot Knob to Drop 4 and its Coachella Branch from Siphon 7 to Siphon 32, or construct seepage recovery facilities in the vicinity of Pilot Knob to Drop 4, including measures to protect public safety; and

Fish and fishing. Wildlife.

(2) implement measures for the replacement of incidental fish and wildlife values adjacent to the canals foregone as a result of the lining of the canal or mitigation of resulting impacts on fish and wildlife resources from construction of a new canal, or a portion thereof. Such measures shall be on an acre-for-acre basis, based on ecological equivalency, and shall be implemented concurrent with construction of the works. The Secretary shall make available such public lands as he deems appropriate to meet the requirements of this subsection. The Secretary is authorized to develop ground water, with a priority given to nonpotable sources, from public lands to supply water for fish and wildlife purposes.

102 STAT. 4007

Public lands.

(b) OPERATION AND MAINTENANCE DETERMINATION.—The Secretary shall determine the impact of the works on the cost of operation and maintenance and the existing regulating and storage capacity of the All American Canal and its Coachella Branch. If the works result in any added operation and maintenance costs which exceed the benefits derived from increasing the regulating and storage capacity of the canals to the Imperial Irrigation District or the Coachella Valley Water District, the Secretary shall include such costs in the funding agreement for the works.

(c) CONSTRUCTION AND FUNDING AGREEMENT.—The Secretary, subject to the provision of section 205 of this title, may enter into an agreement or agreements with one or more of the California Contractors for the construction or funding of all or a portion of the works authorized in subsection (a) of this section. The Secretary shall ensure that such agreement or agreements include provisions setting forth—

(1) the responsibilities of the parties to the agreement for funding and assisting with implementing all the duties of the Secretary identified in subsections (a) and (b) of this section;

(2) the obligation of the Participating Contractors to pay the additional costs identified in subsection (b) of this section as a result of the works;

Public health and safety.

(3) the procedures and requirement for approval and acceptance by the Secretary of such works, including approval of the quality of construction, measures to protect the public health and safety, mitigation or replacement, as appropriate, of fish and wildlife resources or values, and procedures for operation, maintenance, and protection of such works;

(4) the rights, responsibilities, and liabilities of each party to the agreement;

(5) the term of such agreements which shall not exceed 55 years and may be renewed if consented to by Imperial Irrigation District and Coachella Valley Water District according to their respective interests in the conserved water. If the funding agreements are not renewed, the Participating Contractors shall be compensated by the Imperial Irrigation District or the Coachella Valley Water District for their participation in the cost of the works. Such compensation shall be equal to the replacement value of the works less depreciation. Such depreciated value is to be based upon an engineering analysis by the Secretary of the remaining useful life of the works at the expiration of the funding agreements;

(6) the obligation of the Participating Contractors or the United States for repair or other corrective action which would

SEC. 205. IMPLEMENTATION.

The authorities contained in this title shall take effect upon enactment and the Secretary is authorized to proceed with all preconstruction activities. For a period not to exceed 15 months thereafter, or such additional period as the Secretary and the Imperial Irrigation District, the Coachella Valley Water District, and the Metropolitan Water District of Southern California may agree, the Secretary shall provide to the Imperial Irrigation District the opportunity to become the sole Participating Contractor for the works on the All American Canal from Pilot Knob to Drop 4, and assume all non-Federal obligations to finance the works. After the expiration of the 15-month period or any extension thereto, the Secretary is authorized to enter into agreements with the California Contractors as provided in section 203(c) of this Act.

SEC. 206. PROTECTION OF EXISTING WATER USES.

As of the effective date of this Act, any action of the Secretary to use, sell, grant, dispose, lease or provide rights-of-way across Federal public domain lands located within the All American Canal Service Area shall include the following conditions: (1) those lands within the boundary of the Imperial Irrigation District as of July 1, 1988, as shown in Imperial Irrigation District Drawing 7534, excluding Federal lands without a history of irrigation or other water using purposes; (2) those lands within the Imperial Irrigation District Service Area as shown on General Map of Imperial Irrigation District dated January 1988 (Imperial Irrigation District No. 27F 0189) with a history of irrigation or other water using purposes; and (3) those lands within the Coachella Valley Water District's Improvement District No. 1 shall have a priority for irrigation or other water using purposes over the lands benefiting from the action of the Secretary: *Provided*, That rights to use water on lands having such priority may be transferred for use on lands having a lower priority if such transfer does not deprive other lands with the higher priority of Colorado River water that can be put to reasonable and beneficial use.

SEC. 207. WATER CONSERVATION STUDY.

(a) PREPARATION AND TRANSMITTAL.—Any agreement entered into pursuant to section 203 between the Secretary and The Metropolitan Water District of Southern California (hereafter referred to as the "District") shall require, prior to the initiation of construction but in no case later than two years from the date of enactment of this Act, the preparation and transmittal to the Secretary by the District of a water conservation study as described in this section, together with the conclusions and recommendations of the District.

(b) PURPOSE.—The purpose of the study required by this section shall be the evaluation of various pricing options within the District's service area, an estimation of demand elasticity for each of the principal categories of end use of water within the District's service area, and the estimation of the quantity of water saved under the various options evaluated.

102 STAT. 4010

(c) PRICING ALTERNATIVES.—Such study shall include a thorough evaluation of all the pricing alternatives, alone and in various combinations, that could be employed by the District, including but not limited to—

(1) recovery of all costs through water rates;
(2) seasonal rate differentials;
(3) dry year surcharges;
(4) increasing block rates; and
(5) marginal cost pricing.

(d) PUBLIC REVIEW AND COMMENT.—Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including the transcripts of public hearings which shall be

held during the course of the study. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(e) LIMITATION ON INITIATION OF CONSTRUCTION.—Prior to the initiation of construction, the Secretary shall determine that the requirements of this section have been satisfied. Nothing in this section shall be deemed to authorize the Secretary to require the implementation of any policies or recommendations contained in the study.

SEC. 208. SALTON SEA NATIONAL WILDLIFE REFUGE.

Within 90 days from the date of enactment of this title, the Secretary is directed to prepare and submit a report to the Congress which describes the current condition of habitat at the Salton Sea National Wildlife Refuge, California. The report shall also— Reports.

(1) assess water quality conditions within the refuge;

(2) identify actions which could be undertaken to improve habitat at the refuge;

(3) describe the status of wildlife, including waterfowl populations, and how wildlife populations have fluctuated or otherwise changed over the past ten years; and

(4) describe current and future water requirements of the refuge, the availability of funds for water purchases, and steps which may be necessary to acquire additional water supplies, if needed.

SEC. 209. RELATION TO RECLAMATION LAW.

No contract or agreement entered into pursuant to this title shall be deemed to be a new or amended contract for the purposes of section 203(a) of the Reclamation Reform Act of 1982 (Public Law 97-293, 96 Stat. 1263). 102 STAT. 4011

Approved November 17, 1988.

LEGISLATIVE HISTORY—S. 795:

HOUSE REPORTS: No. 100-780 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-47 and No. 100-254 (both from Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 19, considered and passed Senate.
Vol. 134 (1988): Oct. 3, 4, considered and passed House, amended.
Oct. 19, Senate concurred in House amendment with an amendment.
Oct. 20, House concurred in Senate amendment.

Public Law 100-696
100th Congress

102 STAT. 4571

An Act

To provide for the designation and conservation of certain lands in the States of Arizona and Idaho, and for other purposes.

Nov. 18, 1988
[S. 2840]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Arizona-Idaho Conservation Act of 1988". Arizona-Idaho Conservation Act of 1988.

TITLE I—SAN PEDRO RIPARIAN NATIONAL CONSERVATION AREA

ESTABLISHMENT OF SAN PEDRO RIPARIAN NATIONAL CONSERVATION AREA

SEC. 101. (a) ESTABLISHMENT.—In order to protect the riparian area and the aquatic, wildlife, archeological, paleontological, sci- 16 USC 460xx.

entific, cultural, educational, and recreational resources of the public lands surrounding the San Pedro River in Cochise County, Arizona, there is hereby established the San Pedro Riparian National Conservation Area (hereafter in this title referred to as the "conservation area").

(b) AREA INCLUDED.—The conservation area shall consist of public lands as generally depicted on a map entitled "San Pedro Riparian National Conservation Area—Proposed" numbered AZ-040-OZ, dated January 1988, and consisting of approximately 56,431 acres.

(c) MAP.—As soon as is practicable after enactment of this title, a map and legal description of the conservation area shall be filed by the Secretary of the Interior (hereafter in this title referred to as the "Secretary") with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Each such map shall have the same force and effect as if included in this title. Such map shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior, and in the Bureau of Land Management offices of the State Director for Arizona, and the district office responsible for the management of the conservation area.

Public information.

MANAGEMENT OF CONSERVATION AREA

16 USC 460xx-1.

SEC. 102. (a) GENERAL AUTHORITIES.—The Secretary shall manage the conservation area in a manner that conserves, protects, and enhances the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the conservation area. Such management shall be guided by this title and, where not inconsistent with this title, by the provisions of the Federal Land Policy and Management Act of 1976 (hereinafter in this title referred to as "FLPMA").

(b) USES.—The Secretary shall only allow such uses of the conservation area as he finds will further the primary purposes for which the conservation area is established. Except where needed for administrative or emergency purposes, the use of motorized vehicles in the conservation area shall only be allowed on roads specifically designated for such use as part of the management plan prepared pursuant to section 103 of this title. The Secretary shall have the power to implement such reasonable limits to visitation and use of the conservation area as he finds appropriate for the protection of the resources of the conservation area, including requiring permits for public use, or closing portions of the conservation area to public use.

102 STAT. 4572

(c) WITHDRAWALS.—Subject to valid existing rights, all Federal lands within the conservation area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto.

(d) WATER RIGHTS.—Congress reserves for the purposes of this reservation, a quantity of water sufficient to fulfill the purposes of the San Pedro Riparian National Conservation Area created by this title. The priority date of such reserve rights shall be the date of enactment of this title. The Secretary shall file a claim for the quantification of such rights in an appropriate stream adjudication.

Claims.

(e) ENFORCEMENT.—Any person who violates any provision of this title or any regulation promulgated by the Secretary to implement this title shall be subject to a fine of up to $10,000, or imprisonment for up to one year, or both.

MANAGEMENT PLAN

16 USC 460xx-2.

SEC. 103. (a) DEVELOPMENT OF PLAN.—No later than 2 years after the enactment of this title, the Secretary shall develop a comprehensive plan for the long-range management and protection of the conservation area. The plan shall be developed with full opportunity

for public participation and comment, and shall contain provisions designed to assure protection of the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreation resources and values of the conservation area.

(b) RECOMMENDATIONS.—The Secretary shall, in the comprehensive plan referred to in subsection (a), develop recommendations to Congress on whether additional lands should be included in the conservation area.

(c) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with appropriate State and local agencies, pursuant to section 307(b) of FLPMA, to better implement the plan developed pursuant to subsection (a).

(d) RESEARCH.—In order to assist in the development of appropriate management strategies for the conservation area, the Secretary may authorize research on matters including the environmental, biological, hydrological, and cultural resources of the conservation area, pursuant to section 307(a) of FLPMA.

ADVISORY COMMITTEE

SEC. 104. (a) ESTABLISHMENT.—The Secretary shall establish a San Pedro Riparian National Conservation Area Advisory Committee, whose purpose shall be to advise the Secretary with respect to the preparation and implementation of the comprehensive, long-range plan required pursuant to section 103 of this title. 16 USC 460xx-3.

102 STAT. 4573

(b) REPRESENTATION.—There shall be 7 members of the Committee, who shall be appointed by the Secretary. Members of the Committee shall be appointed for terms of three years, except that of the members first appointed 2 shall be appointed for terms of 1 year and 3 shall be appointed for terms of 2 years. The Secretary shall appoint one member from nominations supplied by the Governor of the State of Arizona, and one member from nominations supplied by the Supervisors of Cochise County, Arizona. The other members shall be persons with recognized backgrounds in wildlife conservation, riparian ecology, archeology, paleontology, or other disciplines directly related to the primary purposes for which the conservation area was created.

LAND ACQUISITION

SEC. 105. The Secretary may acquire lands or interests in lands within the boundaries of the conservation area by exchange, purchase, or donation, except that any lands or interests therein owned by the State or local government may be acquired by donation or exchange only. Any purchase or exchange of lands to be added to the conservation area shall require the consent of the owner of those lands or rights. 16 USC 460xx-4.

REPORT TO CONGRESS

SEC. 106. No later than five years after the enactment of this title, and every ten years thereafter, the Secretary shall report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, on the implementation of this title. Such report shall include a detailed statement on the condition of the resources within the conservation area and of the progress of the Bureau of Land Management in achieving the purposes of this title. 16 USC 460xx-5.

AUTHORIZATION

SEC. 107. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. 16 USC 460xx-6.

TITLE II—CITY OF ROCKS NATIONAL RESERVE

ESTABLISHMENT OF CITY OF ROCKS NATIONAL RESERVE

Historic preservation. 16 USC 460yy.

SEC. 201. (a) There is hereby established the City of Rocks National Reserve (hereinafter referred to as the "reserve"), in order to preserve and protect the significant historical and cultural resources; to manage recreational use; to protect and maintain scenic quality; and to interpret the nationally significant values of the reserve.

(b) The reserve shall include approximately fourteen thousand three hundred and twenty acres as depicted on the map entitled "Boundary Map, City of Rocks National Reserve, Idaho" numbered P30-80,005 and dated October 1987. The map shall be on file in the offices of the National Park Service, Department of the Interior and the Offices of the Governor, State of Idaho.

102 STAT. 4574

(c) Within six months after the enactment of this title, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall file a legal description of the reserve designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (b). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior and the offices of the Governor of the State of Idaho.

Public information.

PLAN AND MANAGEMENT OF RESERVE

State and local governments. 16 USC 460yy-1.

SEC. 202. (a) To achieve the purpose of this title, the Secretary, acting through the National Park Service, in cooperation with appropriate State and Federal agencies, local units of government and local residents shall formulate a comprehensive plan for the protection, preservation, and interpretation of the reserve. The plan shall identify those areas or zones within the reserve which would most appropriately be devoted to—

(1) public use and development;

(2) historic and natural preservation; and

(3) private use subject to appropriate local ordinances designed to protect the historic rural setting.

(b) Within eighteen months following the date of enactment of this section, the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives and to the Governor of the State of Idaho.

(c) At such time as the State or appropriate units of local government having jurisdiction over land use within the reserve have enacted ordinances or established regulations which in the judgment of the Secretary will protect and preserve the historic and natural features of the area in accordance with the comprehensive plan, the Secretary shall, pursuant to cooperative agreement—

(1) transfer management and administration over all or any part of the property acquired under subsection (d) of this section to the State or appropriate units of local government;

(2) provide technical assistance to such State or units of local government in the management, protection, and interpretation of the reserve; and

Grants.

(3) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to such State or local unit of government to carry out the purposes of this title.

(d)(1) The Secretary is authorized to acquire such lands and interests as he determines are necessary to accomplish the purposes of this title by donation, purchase with donated funds, or appropriated funds, or exchange, except that the Secretary may not

acquire the fee simple title to any land without the consent of the owner. The Secretary shall, in addition, give prompt and careful consideration to any offer made by an individual owning property within the reserve to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

(2) Lands and waters, and interests therein, within the boundaries of the reserve which were administered by the Forest Service, United States Department of Agriculture or the Bureau of Land Management, Department of the Interior prior to the date of enactment of this title are hereby transferred to the administrative jurisdiction of the Secretary to be administered by the National Park Service in accordance with this title. 102 STAT. 4575

(3) Lands and interest therein so acquired shall, so long as responsibility for management and administration remains with the United States, be administered by the Secretary subject to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and in a manner consistent with the purpose of this title.

(e) If, after the transfer of management and administration of any lands pursuant to subsection (c) of this section, the Secretary determines that the reserve is not being managed in a manner consistent with the purposes of this title, he shall so notify the appropriate officers of the State or local unit of government to which such transfer was made and provide for a one hundred and eighty-day period in which the transferee may make such modifications in applicable laws, ordinances, rules, and procedures as will be consistent with such purposes. If, upon the expiration of such one hundred and eighty-day period, the Secretary determines that such modifications have not been made or are inadequate, he shall withdraw the management and administration from the transferee and he shall manage such lands in accordance with the provisions of this title.

(f) Congress finds that there are unique circumstances with respect to the water and water related resources within the Reserve designated by this title. The Congress recognizes that the management of this area may be transferred to the State of Idaho, that the State has committed to providing the water necessary to fulfill the purposes of this title, and that there is little or no water or water-related resources that require the protection of a Federal reserved water right. Nothing in this title, nor any action taken pursuant thereto, shall constitute either an express or implied reservation of water or water right for any purpose: *Provided*, That the United States shall retain that reserved water right which is associated with the initial establishment and withdrawal of the national forest lands which will be transferred to the Reserve under this title. Water.

(g) Subject to valid existing rights, Federal lands and interests therein, within the reserve, are hereby withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970, as amended.

(h) There is hereby authorized to be appropriated not to exceed $2,000,000 to carry out the provisions of this title. Appropriation authorization.

TITLE III—HAGERMAN FOSSIL BEDS NATIONAL MONUMENT

16 USC 431 note.

ESTABLISHMENT OF HAGERMAN FOSSIL BEDS NATIONAL MONUMENT

SEC. 301. (a) In order to preserve for the benefit and enjoyment of present and future generations the outstanding paleontological sites known as the Hagerman Valley fossil sites, to provide a center for continuing paleontological research, and to provide for the display and interpretation of the scientific specimens uncovered at such sites, there is hereby established the Hagerman Fossil Beds

102 STAT. 4576 National Monument (hereinafter in this title referred to as the "monument").

(b) The monument shall consist of approximately four thousand three hundred and ninety-four acres as depicted on a map entitled "Boundary Map, Hagerman Fossil Beds National Monument, Idaho" number HAFO-20,012A and dated September, 1987. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior and the Office of the Superintendent, Hagerman Fossil Beds National Monument, Idaho.

Public information.

(c) Within six months after the enactment of the title, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall file a legal description of the monument designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Public information.

ACQUISITION OF LANDS

Gifts and property.

SEC. 302. (a) The Secretary is authorized to acquire lands or interests in lands within the monument only by donation or exchange.

(b) Notwithstanding any other provision of law, any Federal property located within the boundaries of the monument shall be transferred without consideration to the administrative jurisdiction of the Secretary to be administered in accordance with the purposes of this title.

(c) In acquiring non-Federal lands by exchange pursuant to this title, the Secretary shall utilize his existing authority including but not limited to applicable provisions of the Federal Land Policy and Management Act of 1976 (Public Law 94-579).

ADMINISTRATION OF MONUMENT

SEC. 303. The Secretary shall administer the monument established pursuant to this title in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented.

WATER RIGHTS

SEC. 304. Congress finds that there are unique circumstances with respect to the water or water-related resources within the Monument designated by this title. The Congress recognizes that there is little or no water or water-related resources that require the protection of a federal reserve water right. Nothing in this title, nor any action taken pursuant thereto, shall constitute either an expressed or implied reservation of water or water right for any purpose.

102 STAT. 4577

EFFECT ON EXISTING FACILITIES

SEC. 305. Nothing in this title shall affect electrical generating and transmission and irrigation pumping and transmission facilities in existence within the boundaries of the monument, or the right to operate, maintain, repair, upgrade, and modify such facilities. Such facilities are hereby expressly determined to be compatible and consistent with the purposes of this title.

CONTINUING PALEONTOLOGICAL RESEARCH

SEC. 306. In order to provide for continuing paleontological research, the Secretary shall incorporate in the general management plan provisions for the orderly and regulated use of and research in the monument by qualified scientists, scientific groups, and students under the jurisdiction of such qualified individuals and groups.

MINING PROHIBITION

SEC. 307. Subject to valid existing rights, Federal lands and interests therein, within the monument, are hereby withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970, as amended.

AUTHORIZATION OF APPROPRIATIONS

SEC. 308. There are hereby authorized to be appropriated not to exceed $5,000,000 to carry out the purposes of this title.

TITLE IV—ARIZONA-FLORIDA LAND EXCHANGE

DEFINITIONS

SEC. 401. For purposes of this title:

(1) The term "Administrator" means the Administrator of Veterans' Affairs.

(2) The term "Arizona InterTribal Trust Fund" means the fund established pursuant to section 405(a)(1) of this title in the Treasury of the United States for the benefit of Arizona Tribes that were members of the InterTribal Council of Arizona on January 1, 1988, and the members of such tribes.

(3) The term "Arizona Tribe" means an Indian tribe that has a reservation located partially or totally in the State of Arizona.

(4) The term "City" means the City of Phoenix, Arizona.

(5) The term "Collier" means the nongovernmental parties to the Exchange Agreement identified in the Exchange Agreement as Barron Collier Company, Collier Development Corporation, and Collier Enterprises.

(6) The term "Exchange Agreement" means the Agreement Among the United States, Collier Enterprises, Collier Development Corporation, and the Barron Collier Company, executed on May 15, 1988, and subsequently submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

102 STAT. 4578

Florida.

(7) The term "Florida Lands" means the lands that would be conveyed to the United States by Collier under the terms of the Exchange Agreement or this title, and other lands owned by Collier and located within the boundaries of the Florida Panther National Wildlife Refuge to be acquired by purchase by the United States and managed as part of such Refuge, other than those lands identified for conveyance to the United States pursuant to agreements for purchase and sale of such lands executed by Collier prior to January 1, 1988.

(8) The term "InterTribal Council of Arizona" or "ITCA" means the corporation organized and existing under the laws of the State of Arizona under the name InterTribal Council of Arizona, Inc., or a successor to such corporation organized and existing under the laws of the State of Arizona, the membership of which includes thirteen or more of the Arizona Tribes that were members of the ITCA on January 1, 1988.

(9) The term "Land Exchange" means the transaction providing for the acquisition by the United States of title to lands in

Florida owned by Collier and the receipt by the United States of Monetary Proceeds in exchange for the acquisition by Collier of title to land within the School Property.

(10) The term "Monetary Proceeds" means either—

(A) the cash amount required to be paid to the United States by Collier upon closing of the Land Exchange, or

(B) the amount required to be paid to the United States by a Purchaser other than Collier upon closing of the Purchase Transaction, less the amount required to be paid from the account for acquisition of the Florida Lands and reimbursement of costs established under section 402(i) of this title.

(11) The term "Navajo Trust Fund" means the fund established pursuant to section 405(a)(2) of this title in the Treasury of the United States for the benefit of the Navajo Tribe and its members.

(12) The term "Phoenix Exchange Property" means the land within the School Property to be conveyed to a Purchaser under the Land Exchange or the Purchase Transaction, which land shall be the School Property less any parcel of land to be conveyed to the City of Phoenix or transferred to the Veterans' Administration upon closing of the Land Exchange or Purchase Transaction pursuant to section 402 of this title.

(13) The term "Planning and Development Agreement" means the Memorandum of Agreement between the City of Phoenix, Arizona, Collier Enterprises and Barron Collier Company approved by the City Council of Phoenix, Arizona, on July 1, 1987, including any amendments or modifications of such Memorandum of Agreement subsequently agreed to by the parties, or, as the context may require, an agreement between the City of Phoenix, Arizona, and a Purchaser other than Collier that is identical in all material respects to such Memorandum of Agreement.

(14) The term "Public Planning Process" means the land use planning and zoning process applicable to the School Property under the Planning and Development Agreement or other State or local law and regulation applicable to the planning and zoning of such property.

102 STAT. 4579

(15) The term "Purchase Transaction" means the cash purchase of the Phoenix Exchange Property by a Purchaser other than Collier under section 402(h) of this title.

(16) The term "Purchaser" means Collier or, in the event that Collier does not accept the offer of the United States to acquire the Phoenix Exchange Property under either section 402(h)(1) or section 402(h)(6) and (7) of this title, any other person that acquires the Phoenix Exchange Property under a Purchase Transaction.

(17) The term "School Property" means the real property used by the Secretary on January 1, 1988, for the Phoenix Indian High School in Phoenix, Arizona.

(18) The term "Secretary" means the Secretary of the Interior.

(19) The term "Trust Fund Payment" means the payment to the United States of the Monetary Proceeds for deposit into, as the context requires, the Arizona InterTribal Trust Fund or the Navajo Trust Fund, in the form of a lump sum payment or annual payments as determined under section 403 of this title.

(20) The term "Trust Fund Payment Agreement" means an agreement providing for payment by the Purchaser of annual Trust Fund Payments for deposit into the Arizona InterTribal Trust Fund or the Navajo Trust Fund or, as the context may require, an agreement between the United States and a Purchaser other than Collier that is identical in all material respects to such Trust Fund Payment Agreement.

(21) The term "Trust Income" to the Arizona InterTribal Trust Fund or the Navajo Trust Fund means the interest earned on amounts deposited into each such trust fund and any amounts paid into each such trust fund in the form of annual Trust Fund Payments.

(22) The term "Veterans' Administration Property" means the property adjacent to the School Property owned by the United States and under the jurisdiction and control of the Veterans' Administration on January 1, 1988.

DISPOSITION OF SCHOOL PROPERTY

SEC. 402. (a) AUTHORIZATION OF DISPOSAL.—The Secretary is authorized to dispose of the School Property and use the Monetary Proceeds only in accordance with this title. The provisions of this title shall govern the disposal of such property and other provisions of law governing the disposal of Federal property shall not apply to the disposal of the School Property.

(b) EXCHANGE AGREEMENT.—The Exchange Agreement is ratified and confirmed and sets forth the obligations, duties, and responsibilities of the parties to the Exchange Agreement. The Secretary shall implement the Exchange Agreement in accordance with its terms and conditions; except that, the Secretary may, with the concurrence of Collier, make minor and technical amendments in land descriptions and instruments of conveyance, as set forth in the agreement, upon 30 days prior written notice to the House Interior and Insular Affairs and Senate Energy and Natural Resources Committees.

(c) CONVEYANCE OF LANDS; TRANSFER OF JURISDICTION.—If the Phoenix Exchange Property is conveyed under the Land Exchange or a Purchase Transaction, the Secretary is authorized and directed, subject to the requirements of this section, to— 102 STAT. 4580

(1) convey to the City by quitclaim deed a parcel of 20 acres of the School Property upon election by the City to accept such conveyance under subsection (e);

(2) transfer jurisdiction and control of a parcel of 11.5 acres of the School Property to the Veterans' Administration pursuant to subsection (f); and

(3) transfer jurisdiction and control of a parcel of 4.5 acres of the School Property to the Veterans' Administration pursuant to subsection (g).

(d) PRELIMINARY NOTICE.—(1) On a date no later than 135 days prior to acceptance by Collier of the offer of the United States under the Exchange Agreement, Collier shall provide preliminary notice in writing of its intent to accept such offer to—

(A) the Secretary;

(B) the Mayor of the City;

(C) the Administrator of Veterans' Affairs;

(D) the InterTribal Council of Arizona; Indians.

(E) the governing body of the Navajo Tribe; and

(F) the Governor of the State of Arizona.

The provision of this preliminary notice by Collier shall not affect Collier's right to accept or not to accept the offer of the United States under the Exchange Agreement and in accordance with subsection (h) (1) or (7).

(2) Notwithstanding any provision of the Exchange Agreement, Collier may not provide preliminary notice under paragraph (1) prior to the later of one year following the date of enactment of this title or the submission of a Specific Plan for the Phoenix Exchange Property as provided in the Planning and Development Agreement.

(e) ELECTION BY CITY.—(1) Within 15 days after receipt of notice to the Mayor of the City under subsection (d), the City may advise the Secretary in writing that it elects to accept conveyance of a parcel of 20 acres of land within the School Property identified for conveyance to the City by mutual agreement with Collier in accordance with the Public Planning Process.

not have occurred in the absence of the works in the case of earthquake or other acts of God;

(7) the obligation of the Participating Contractors or the United States to hold harmless Imperial Irrigation District and Coachella Valley Water District for liability to third parties 102 STAT. 4008
which occurs after the Secretary accepts the works and would not have occurred in the absence of the works; and,

(8) the requirement that the remaining net obligations due the United States for construction of the All American Canal owed on the date of enactment of this Act be paid by the Participating Contractors.

(d) TITLE TO THE WORKS.—A Participating Contractor shall not receive title to any works constructed pursuant to this section by virtue of its participation in the funding for the works. Title to all such works shall remain with the United States. Upon completion of the works and upon request by an All American Canal Contractor (City of San Diego, Imperial Irrigation District, or Coachella Valley Water District) for transfer of title of the All American Canal, its Coachella Branch, and appurtenant structures below Syphon Drop (including the works constructed pursuant to this section), the Secretary shall, within 90 days, take such necessary action as the Secretary deems appropriate to complete transfer of title to the requesting contractor, according to the contractor's respective interest unless the Secretary determines that such transfer would impair any existing rights of other All American Canal contractors, the rights or obligations of the United States, or would inhibit the Secretary's ability to fulfill his responsibility under the Project Act or other applicable law.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) No Federal funds are authorized to be appropriated to the Secretary for construction of the works described in subsection (a)(1) of this section.

(2) The Secretary is authorized to receive funds in advance from one or more Participating Contractors pursuant to the Contributed Funds Act of March 4, 1921 (41 Stat. 1401) under terms and conditions acceptable to the Secretary in order to carry out the Secretary's responsibilities under subsections (a), (b), and (c) of this section.

SEC. 204. USE OF CONSERVED WATER.

(a) SECRETARIAL DETERMINATION.—The Secretary shall determine the quantity of water conserved by the works and may revise such determination at reasonable intervals based on such information as the Secretary deems appropriate. Such initial determination and subsequent revision shall be made in consultation with the California Contractors.

(b) BENEFICIAL USE IN CALIFORNIA.—

(1) The water identified in subsection (a) of this section shall be made available, subject to the approval requirement established in section 203(c)(3), for consumptive use by California Contractors within their service areas according to their priorities under the Seven Party Agreement.

(2) If the water identified in subsection (a) of this section is used during the term of the funding agreements by (A) a California Contractor other than a Participating Contractor, or (B) by a Participating Contractor in an amount in excess of its proportionate share as measured by the amount of its contributed funds in relation to the total contributed funds, such contractor shall reimburse the Participating Contractors for the annualized amounts of their respective contributions which funded the conservation of water so used, any added costs of operation and maintenance as determined in section 203(b), and 102 STAT. 4009
related mitigation costs under section 203(a)(2). Such reimbursement shall be based on the costs each Participating Contractor incurs in contributing funds and its total contribution, and the life of the works.

(2) On or after conveyance of the Phoenix Exchange Property under the Land Exchange or Purchase Transaction, the Secretary shall convey to the City such parcel of 20 acres of the School Property as the City may elect to receive under paragraph (1), subject to the requirements of this section: *Provided*, That if the City and the Purchaser have not identified 20 acres for conveyance to the City in accordance with the Public Planning Process at the time of closing of the Land Exchange or the Purchase Transaction, the Secretary shall convey to the city a parcel of land consisting of the northernmost 20 acres of the School Property.

(3) Nothing in this title shall be construed as a limitation on the authority of the Purchaser and the City to enter into agreements to exchange, on an acre-for-acre basis, land within the School Property conveyed to the Purchaser for land conveyed by the United States to the City or owned by the City contiguous to the School Property.

(4) Any conveyance to the City by the United States under this subsection shall include the requirement for a right of reverter in favor of the United States restricting the use of such land perpetually to provide for public open space and recreation.

(5) Any conveyance by the Purchaser to the City of land within
102 STAT. 4581 the School Property pursuant to exchange shall include a right of reverter in favor of the United States restricting the use of such land perpetually to provide for public open space and recreation. The conveyance by exchange of land to the Purchaser from the City shall extinguish any right of reverter restricting the use of land so conveyed to the Purchaser.

(6) Nothing in this subsection shall be construed to alter any right of the City to purchase additional acres of land within the School Property from the Purchaser pursuant to the Planning and Development Agreement or as may otherwise be agreed to by the City and the Purchaser.

(f) TRANSFER TO THE VETERANS' ADMINISTRATION.—(1) Upon the closing of the Land Exchange or the Purchase Transaction, the Secretary shall transfer to the Veterans' Administration jurisdiction and control of a parcel of 11.5 acres (including improvements located thereon) within the School Property to be used for expansion of the Veterans' Administration Medical Center in Phoenix, Arizona.

(2) Such parcel shall be the portion of land designated as Tract C on the metes-and-bounds surveys in the southeast quarter of section 20, township 2 north, range 3 east, of the Gila and Salt River Meridian, Arizona, conducted by the Bureau of Land Management of the Department of the Interior, dated March 22, 1988.

(3)(A) The Administrator shall cooperate with the City in the planning and development of land transferred under this subsection for the purpose of ensuring comprehensive planning of the School Property in accordance with the objectives of the Public Planning Process. The general authorities of the Administrator, including but not limited to those contained in sections 5022(a)(2) and 5024 of title 38, United States Code, shall be available to the Administrator for the purposes of this subsection.

Reports. (B) The Administrator shall, within six months after the date of the enactment of this title and every six months thereafter until the cooperative planning referred to in subparagraph (A) is completed, transmit a report to the Committee on Interior and Insular Affairs and the Committee on Veterans' Affairs of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Veterans' Affairs of the Senate. Each such report shall contain a description of the efforts made by the Veterans' Administration in carrying out such planning during the period for which the report is submitted.

(C) The Secretary shall enter into a memorandum of understanding with the Administrator for the temporary use by the Administrator of the gymnasium constructed on the School Property in 1975. Such temporary use shall not extend beyond the interim period before the transfer or development of the property on which the gymnasium is located.

(g) TRANSFER TO THE STATE OF ARIZONA.—(1) Upon the closing of the Land Exchange or the Purchase Transaction, the Secretary shall transfer to the Veterans' Administration jurisdiction and control of a parcel of 4.5 acres (including improvements located thereon) within the School Property which shall be under the jurisdiction and control of the Veterans' Administration until disposed of in accordance with paragraph (3) or (4).

(2) Such parcel of land shall be contiguous to the parcel of land transferred to the Veterans' Administration under subsection (f) and to the Veterans' Administration Property. Such parcel shall be identified by mutual agreement of the City, the Administrator, 102 STAT. 4582
Collier, and the State of Arizona in accordance with the objectives of the Public Planning Process for use by the State of Arizona as a site for facilities owned and operated by such State as a home for veterans.

(3) The Administrator shall convey such parcel (including improvements located thereon), without reimbursement, to the State of Arizona when—

(A) the Administrator of Veterans' Affairs has approved the State of Arizona's application for assistance in construction of a State veterans' facility on such parcel pursuant to section 5035 of title 38, United States Code; and

(B) the State of Arizona has appropriated sufficient funds to pay for its portion of the costs of construction of such facility.

(4) If the State of Arizona does not submit an application for assistance described in paragraph (3)(A) and appropriate the funds described in paragraph (3)(B) within three years after such parcel is transferred to the Veterans' Administration under this subsection, the Administrator of Veterans' Affairs shall transfer jurisdiction and control of such parcel to the Secretary.

(5) Such land shall be offered by the Secretary for sale to the City, subject to a right of reverter in favor of the United States restricting the use of such land perpetually to provide for public open space and recreation, at a price determined by the Secretary which shall be representative of the value of such land discounted to account for such restrictions in use. In the event that the City does not accept the offer of the United States to purchase such land within six months from the date such offer is made, such land shall be offered for sale to the Purchaser at fair market value. The amount received Indians.
from any sale of such land shall be deposited in the Arizona InterTribal Trust Fund and in the Navajo Trust Fund in accordance with the allocation described in section 405(e).

(h) OFFERS TO PURCHASE.—(1) Upon receipt by the Secretary of the notice of election to receive the parcel of land by the City of Phoenix under subsection (e), but in no event later than 15 days after receipt of preliminary notice to the Secretary by Collier under subsection (d), the Secretary shall notify Collier that, notwithstanding the provisions of subsection (d)(1), Collier may accept the offer of the United States to acquire the Phoenix Exchange Property under the terms of the Exchange Agreement, subject to the requirements that if the fair market value of the Phoenix Exchange Property stated in the current, independent appraisal obtained by the Secretary under subsection (m)(4) is greater than $80,000,000, then Collier shall pay, in addition to the amount required to be paid under paragraphs 13 and 14 of the Exchange Agreement, an amount equal to the difference between the fair market value stated in such appraisal and $80,000,000. If Collier notifies the Secretary that it does not accept the offer of the United States under this paragraph, a Purchaser may acquire the Phoenix Exchange Property pursuant to the requirements of paragraphs (2) through (9) of this subsection.

(2)(A) Upon receipt of notice by Collier that it does not accept the offer of the United States under paragraph (1), but in no event later than 15 days following receipt of such notice, the Secretary shall initiate the bidding process under this section by soliciting and advertising widely for sealed bids for purchase of the Phoenix Exchange Property: *Provided*, That no such bid will be accepted

Federal Register, publication.

102 STAT. 4583

unless such bid offers a price of no less than the minimum acceptable price set forth in subsection (h)(4). The Secretary shall solicit and advertise widely for such bids by publishing notice that the Secretary will receive offers by persons other than Collier to purchase the Phoenix Exchange Property in the Federal Register and in newspapers of general circulation and other appropriate publications, including newspapers in Phoenix, Arizona. Such notice shall include—

(i) an accurate description of the Phoenix Exchange Property, and an identification of any parcels of land within the School Property elected for conveyance to the City pursuant to subsection (e), transferred to the Veterans' Administration pursuant to subsection (f), or conveyed to the State of Arizona pursuant to subsection (g);

(ii) the name and address of State and local offices from which information concerning the zoning and other legal requirements applicable to such property may be obtained;

(iii) a description of the terms and conditions for purchase of the Phoenix Exchange Property established under this title pursuant to which the Secretary may accept an offer to purchase the Phoenix Exchange Property;

(iv) a statement of the minimum price that the Secretary may accept for sale of the Phoenix Exchange Property under paragraph (4) of this subsection;

(v) a description of the other terms and conditions for purchase of the Phoenix Exchange Property that the Secretary determines are necessary to ensure that the rights and obligations of a Purchaser under this section are comparable in all material respects to the rights and obligations of Collier under the Exchange Agreement, except as otherwise provided in this title;

(vi) a statement establishing requirements for deposit of bond or other guarantee of credit in an amount determined by the Secretary; and

(vii) any other information that the Secretary, in his discretion, determines is reasonably necessary to permit a bona fide potential purchaser to evaluate the terms and conditions for purchase of the Phoenix Exchange Property.

(B) Upon request, the Secretary shall make available to any potential purchaser a copy of the Exchange Agreement or any other document in the possession of the Secretary which the Secretary in his discretion determines is reasonably necessary to permit a bona fide potential purchaser to evaluate the proposal of the United States to sell the Phoenix Exchange Property.

(3) Any person seeking to acquire the Phoenix Exchange Property by purchase under this section shall, within 90 days after publication of notice in the Federal Register under paragraph (2)(A), deliver to the Secretary in the form prescribed in such notice, a written offer to purchase the Phoenix Exchange Property which offer shall—

(A) offer to purchase the entire Phoenix Exchange Property for cash in a single transaction at a price greater than the minimum acceptable price established under paragraph (4);

(B) by its terms be irrevocable for a period of at least 120 days from the date such offer is delivered to the Secretary and be legally binding on the offeror upon acceptance of such offer by the United States;

(C) offer to enter into a Purchase Agreement with the United States under the terms and conditions for purchase of the Phoenix Exchange Property described in the notice by the Secretary under paragraph (2);

102 STAT. 4584

(D) contain an offer to the United States to enter into a Trust Fund Payment Agreement in a form prescribed by the Secretary consistent with the requirements for payment of the Trust Fund Payment in the form of annual payments under section 403, which agreement shall be legally binding upon the

offeror upon election of the Secretary to receive payment of the Monetary Proceeds in the form of annual payments under section 403 of this title, including: (i) a detailed description of the collateral to be provided by the offeror to secure the payment obligation under the Trust Fund Payment Agreement upon such election of the Secretary to receive payment in the form of annual payments, and (ii) evidence of ownership and value of such collateral sufficient to permit the Secretary to determine whether such collateral is adequate to secure the payment obligations of the Purchaser under the Trust Fund Payment Agreement;

(E) contain evidence that the offeror has made an offer to the City of Phoenix, legally binding by its terms on the offeror upon approval by the City Council of Phoenix, Arizona, to enter into the Planning and Development Agreement;

(F) contain full and substantial evidence of the capacity of the offeror to enter into and perform each of the obligations required to be undertaken by the offeror under the terms described by the Secretary in accordance with paragraph (2) including a description of any financing arrangements to be undertaken by the offeror in order to perform the payment obligation of the Purchaser upon closing of the Purchase Transaction;

(G) meet any other requirements prescribed by the Secretary in the notice published under paragraph (2)(A) which are reasonably necessary to ensure that any offer accepted by the United States under this subsection will provide public benefits to the United States comparable to those provided to the United States under the Land Exchange; and

(H) be accompanied by the deposit of a bond or other guarantee consistent with the requirements prescribed by the Secretary under paragraph (2). Securities.

(4) The minimum acceptable price for sale of the Phoenix Exchange Property is a cash amount equal to the sum of the amount required to be deposited into the account for purchase of the Florida Lands and reimbursement of costs under subsection (i) and an amount equal to the amount required to be paid by Collier under paragraphs 13 and 14 of the Exchange Agreement.

(5)(A) The Secretary shall review any offer to purchase the Phoenix Exchange Property delivered to the Secretary within 90 days after publication of notice under paragraph (2)(A) for the purpose of determining whether such offer meets the requirements under paragraph (3) or other requirements set forth in the notice of the Secretary pursuant to paragraph (2). The Secretary shall identify for consideration as qualifying offers all such offers that meet such requirements subject to the limitations of subparagraph (B).

(B) In determining whether an offer is a qualifying offer under this paragraph, the Secretary shall exclude from consideration any offer that the Secretary in his discretion determines— 102 STAT. 4585

(i) does not meet the requirements set forth in the notice of the Secretary pursuant to paragraph (2);

(ii) is made by an offeror without adequate capacity to enter into or perform the payment obligations under this title or the Trust Fund Payment Agreement; or

(iii) has failed to identify collateral that is adequate to secure the obligations under the Trust Fund Payment Agreement.

(C) The Secretary shall, within 105 days after publication of notice in the Federal Register, select from among the qualifying offers the best qualifying offer, which shall be the single offer from among the qualifying offers that contains an offer to pay to the United States the highest lump sum cash payment upon closing of the Purchase Transaction: *Provided,* That nothing in this paragraph shall be construed to limit or alter the right of the Secretary to elect to receive payment of the Monetary Proceeds in the form of annual payments under section 403 of this title.

(6) Within 105 days after publication of notice in the Federal Register under paragraph (2)(A), the Secretary shall advise Collier whether the Secretary has identified a qualifying offer or offers. In the event that the Secretary has not identified any such qualifying offer, he shall advise Collier that Collier may accept the offer of the United States to Collier under the terms of the Exchange Agreement and this title. In the event that the Secretary has identified a qualifying offer, the Secretary shall provide Collier with a copy of the best qualifying offer, and shall advise Collier that Collier may accept the offer of the United States under the Exchange Agreement subject to the requirement that Collier pay, rather than the amount required to be paid under paragraphs 13 and 14 of the Exchange Agreement, the difference between an amount equal to 105 percent of the price to be paid under the best qualifying offer and $45,100,000.

(7) Collier may accept the offer of the United States by notice to the Secretary within 30 days of receipt of notice under paragraph (6) that Collier accepts such offer under the terms of the Exchange Agreement and subject to the requirement, if any, for additional payment under paragraph (6). If Collier accepts the offer of the United States under this paragraph, closing of the Land Exchange shall occur under the terms of the Exchange Agreement and this title.

(8) If Collier does not accept such offer, the Secretary shall accept the best qualifying offer. If no qualifying offer has been received within the period specified in paragraph (3), the Secretary shall maintain the School Property in accordance with subsection (k) of this section, and notify the Committees on Interior and Insular Affairs and Veterans' Affairs in the House of Representatives, and the Committee on Energy and Natural Resources in the Senate within 60 days of the Secretary's notice to Collier under paragraph (6). Closing of the Purchase Transaction under this subsection shall occur within 90 days after acceptance by the United States of the best qualifying offer, subject to the requirements respecting deposit of payment under subsection (i).

(9) No action of the Secretary under this subsection shall be subject to the provisions of 5 U.S.C. 553 through 558 or 701 through 706.

(i) ACCOUNT FOR PURCHASE TRANSACTION AMOUNTS.—(1) Upon closing of the Purchase Transaction, there shall be established in
102 STAT. 4586 the Treasury of the United States an account into which shall be deposited from the amount paid to the United States under the Purchase Transaction, at the direction of the Secretary, an amount equal to the sum of—

(A) $49,400,000, less any amount received by Collier in consideration of the conveyance to the United States of any portion of the Florida Lands prior to the closing of the Purchase Transaction, and

(B) an amount equal to the costs determined by the Secretary as reimbursable to Collier under paragraph (2), based on information to be provided to the Secretary by Collier at the time that Collier provides preliminary notice under subsection (d).

(2) For purposes of this subsection, reimbursable costs of Collier shall include—

(A) all costs, including fees for attorneys and consultants and appraisal costs paid or incurred by Collier in connection with the Public Planning Process and planning and zoning of the School Property, and

(B) an amount for compensation of general administrative costs and overhead, which shall be an amount equal to the costs reimbursable to Collier under subparagraph (A) multiplied by a factor of 0.8.

Florida. (3) Upon conveyance by Collier to the United States of title to the Florida Lands pursuant to this subsection, the Secretary shall cause to be paid to Collier from the account established under paragraph

(1): (A) $49,400,000, less any amount previously paid to Collier by the United States in consideration of conveyance of any portion of the Florida Lands, and (B) an amount equal to the total amount of costs reimbursable to Collier under this subsection, as determined by the Secretary.

(j) CONVEYANCE OF TITLE.—Upon conclusion of the procedures under subsection (h), the Secretary is authorized and directed to release and quitclaim to the Purchaser all right, title, and interest of the United States to the Phoenix Exchange Property.

(k) REVERSION.—Any land within the School Property not conveyed to the Purchaser or the City or transferred to the Veterans' Administration upon closing of the Land Exchange or the Purchase Transaction or which reverts to the United States under subsection (e)(4) or is transferred to the Secretary under subsection (g)(4) and is not sold to the City or the Purchaser shall be maintained under the administrative jurisdiction, management and control of the National Park Service and shall not be disposed of until authorized by an Act of Congress: *Provided, however,* That such lands shall not be considered a unit of the National Park System.

(l) STATE AND LOCAL AUTHORITY.—Nothing in this title shall be construed to supersede, abrogate, enlarge, diminish, or otherwise alter the exercise of authority of the State of Arizona, the City or other State and local authority with respect to planning and zoning of the School Property under applicable State or local law.

(m) SPECIFIC PLAN REPORTS.—(1) No later than 30 days after the submission of the Specific Plan as provided for in the Planning and Development Agreement, the Comptroller General of the United States shall submit to Congress a report analyzing the Specific Plan, particularly as it relates to the final proposals for zoning of the Phoenix Exchange Property, the alternatives considered, the reasons for rejection of the alternatives, and the effect of the rezoning proposals on the potential value of the property relative to the effects of other zoning proposals. 102 STAT. 4587

(2) Within 60 days after acceptance of the Purchasers' offer under subsection (h)(8), or acceptance by Collier of the offer of the United States under subsection (h) (1), (6) or (7), whichever is later, the Comptroller General shall provide a further report on all actions taken subsequent to the submission of the Specific Plan relative to disposition of the Phoenix Exchange Property, particularly as they relate to the value received by the United States and the process by which such value was determined.

(3) The Comptroller General shall transmit all reports required by this section to the Committees on Interior and Insular Affairs and Education and Labor of the House of Representatives and the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate.

(4) Within 45 days following submission of the Specific Plan as provided for in the Planning and Development Agreement, the Secretary shall obtain, at Collier's expense, a current, independent appraisal of the Phoenix Exchange Property, based upon the zoning requirements stated in such Specific Plan, which appraisal shall determine the fair market value which Collier must give for the Phoenix Exchange Property if such property is acquired by Collier pursuant to the provisions of subsection (h)(1).

PAYMENT TO THE TRUST FUNDS

Indians.

SEC. 403. (a) DEPOSIT OF MONETARY PROCEEDS.—The Monetary Proceeds shall be paid to the United States for deposit in the Arizona InterTribal Trust Fund and the Navajo Trust Fund in accordance with this section and section 405 of this title.

(b) ELECTION OF LUMP SUM OR ANNUAL PAYMENTS.—Subject to the requirements for consultation under subsection (c)(3), the Secretary may, in his discretion, elect to receive the Trust Fund Payment for deposit in the Arizona InterTribal Trust Fund or the Navajo Trust Fund, or both, in the form of either a lump sum payment or 30 annual payments, calculated in accordance with subsection (c). The

Secretary shall provide notice of such election to the Purchaser within 90 days after receipt of notice from Collier that it intends to accept the offer of the United States under the Exchange Agreement pursuant to section 402(d).

(c) METHOD OF PAYMENT.—(1) If the Secretary elects to receive a Trust Fund Payment in the form of a lump sum payment, the Purchaser shall, at the time of closing, pay to the United States an amount equal to that portion of the Monetary Proceeds that is properly allocable to the Trust Fund for which such election is made.

(2) If the Secretary elects to receive a Trust Fund Payment in the form of annual payments, the Purchaser shall make—

(A) 30 annual payments equal to the interest due on an amount equal to that portion of the Monetary Proceeds that is properly allocable to the Trust Fund for which such election is made; and

(B) at the time of the last annual payment, a payment equal to that portion of the Monetary Proceeds that is properly allocable to the Trust Fund for which such election is made.

(3) Prior to making any election as to form of the Trust Fund
102 STAT. 4588 Payment under this subsection, the Secretary shall consult with—

(A) the InterTribal Council of Arizona, concerning the form of the Trust Fund Payment to the Arizona InterTribal Trust Fund; and

(B) the governing body of the Navajo Tribe, concerning the form of the Trust Fund Payment to the Navajo Trust Fund.

(4) If the Secretary elects to receive a Trust Fund Payment in the form of annual payments under subsection (c)(2), the Secretary is directed to execute the Trust Fund Payment Agreement pursuant to which such annual payments will be made.

(5) The interest rate to be used in determining the interest due on annual Trust Fund Payments payable by the purchaser shall be the interest rate being offered on bonds payable in 30 years sold by the United States on the date that notice of the election of the form of the Trust Fund Payment is made by the Secretary plus 0.25 percent, except that in no event shall such interest rate be lower than 8.5 percent or higher than 9.0 percent.

(6) Closing of the Land Exchange or the Purchase Transaction shall occur no sooner than 90 days after notice of the Secretary's election is provided to the Purchaser, except that if the Secretary elects to receive a Trust Fund Payment in the form of annual payments under subsection (c)(2), closing of the Land Exchange or the Purchase Transaction shall not occur unless a Trust Fund Payment Agreement has been executed.

(d) CASH PROCEEDS.—Any cash proceeds to the United States from the sale of land within the School Property offered to and accepted by the City or the Purchaser subsequent to closing of the Land Exchange or the Purchase Transaction shall be in the form of a lump sum payment, unless otherwise agreed to by the parties, payable to the United States for deposit into the Arizona InterTribal Trust Fund and the Navajo Trust Fund pursuant to section 405 of this title.

CLOSURE OF THE PHOENIX INDIAN HIGH SCHOOL

SEC. 404. (a) CLOSURE.—Notwithstanding any other provision of law, the Secretary shall close the Phoenix Indian High School on a date determined by the Secretary, which date shall be no earlier than June 1, 1990, and no later than September 1, 1990.

(b) NOTICE.—By January 30, 1990, the Secretary shall notify the tribal governing body of each Arizona Tribe affected by the closing of the Phoenix Indian High School and each person, or parent or guardian of each person, enrolled as a student at the Phoenix Indian High School on January 1, 1991, of the date of closing of the Phoenix Indian High School as determined by the Secretary under subsection (a).

(c) INDIVIDUAL EDUCATION PLANS.—(1) Beginning January 30, 1990, but in no case later than March 1, 1990, the Secretary, through the Assistant Secretary of Indian Affairs, shall—

(A) identify each eligible Indian student who is enrolled or preenrolled for attendance at the Phoenix Indian High School, as of the date of enactment of this title, or who attended the Phoenix Indian High School during the academic year 1988–89, and who did not graduate from a secondary program, and shall—

(i) contact each student, or the parents or guardians of record of each such student,

(ii) notify each student that the Phoenix Indian High School is to be closed at the date established by the Secretary under subsection (a),

(iii) inform each of the alternatives available to each student and their families, including attendance at the Bureau operated facility at Riverside, California, and

(iv) develop the individual education plans required under subparagraph (B);

(B) develop for each student identified under subparagraph (A) an individual education plan, which shall be formulated in a cooperative fashion between Bureau education and other appropriate social services. Each individual education plan shall, at the minimum, include—

(i) an identification of the student;

(ii) an identification of the special educational, social, or academically related cultural needs of each student;

(iii) a description of the consultation and discussions with the student and the parent involved in the formulation of this plan;

(iv) an identification of the alternative service provider chosen by the student or parent to provide educational services;

(v) any actions taken, pursuant to the requirements to protect confidentiality, to contact and coordinate the alternative service provider, the tribe, any appropriate Bureau social service entities, and the Office of Indian Education Program; and

(vi) set out in detail the actions to be taken by the Bureau of Indian Affairs to supplement the program provided with additional services and support for the student, where the student attends a non-Bureau funded program or a Bureau funded program which does not include the services described within the plan; and

(C) take such steps as are necessary to establish a formal internal mechanism for implementing the findings and recommendations of the plans developed under subparagraph (B).

(2)(A) Any other provision of law notwithstanding, the Secretary shall, for the fiscal years ending prior to September 30, 1992, reserve from funds appropriated under section 1128 of Public Law 95–561 and other Bureau of Indian Affairs accounts presently providing support to the Phoenix Indian High School during the fiscal year 1990 an amount equal to the amount determined under subparagraph (B) for the purpose of implementing subparagraph (C).

(B)(i) The amount reserved for the fiscal year ending September 30, 1991, shall be equal to the sum of three-fourths the amount generated under the Indian Student Equalization Formula during fiscal year 1990 for the Phoenix Indian High School plus three-fourths the amount generated under the accounts referenced in subparagraph (A), such funds to be reserved from the respective accounts and administered pursuant to subparagraph (C).

(ii) The amount reserved for the fiscal year ending September 1992 shall be equal to the sum of one-half the amount generated under the Indian Student Equalization Formula during fiscal year 1990 for the Phoenix Indian High School plus one-half the amount generated under the accounts referenced in subparagraph (A), such funds to be reserved from the respective accounts and administered pursuant to subparagraph (C).

102 STAT. 4590

(C) From funds reserved pursuant to subparagraph (B), the area education director and the area director shall jointly administer a program to implement the individual education plans developed under paragraph (2), with particular emphasis being placed on monitoring the performance and attendance of students covered by the individual education plans. From such funds, they shall also, to the extent funds are available, conduct such activities as may be necessary to determine those eligible Indian students who reside within the State of Arizona or the jurisdiction of the Phoenix Area Office of the Bureau of Indian Affairs who are of legal age to be attending school but who are not enrolled in any program.

(d) TRANSFER OF JURISDICTION.—Within 60 days after closure of the Phoenix Indian High School under subsection (a), the Secretary shall transfer administrative jurisdiction, management and control of the school property from the Bureau of Indian Affairs to the National Park Service: *Provided,* That, prior to the disposition of the School Property under the terms of the Exchange Agreement or otherwise, the National Park Service shall manage and control such School Property in a manner consistent with the requirements of the Exchange Agreement and subsection (e), except that the Administrator may, during the interim period of administration, take such actions as are necessary to protect the improvements located on the 11.5 acres of land and 4.5 acres of land to be transferred to the Veterans' Administration pursuant to subsections (f) and (g) of section 402. During the interim period of administration the School Property shall not be considered a unit of the National Park System.

California.

(e) TRANSFER OF RESOURCES.—(1) Any other provision of law notwithstanding, the following shall apply to the Sherman Indian School, located in Riverside, California, and operated by the Bureau of Indian Affairs, or its successors, effective on the date of enactment:

(A) The attendance boundaries used by the Bureau of Indian Affairs to govern placements in the Sherman Indian School is expanded to include all of the attendance boundary served in the fiscal year 1991 by the Phoenix Indian High School.

(B) Subject to school board approval, the superintendent of the Sherman Indian School is authorized to pay the recruitment and retention allowance authorized under section 1131(h)(3) of Public Law 95-561.

(C) The Secretary shall inventory all Bureau of Indian Affairs educational property, including personal property, currently located at the Phoenix Indian High School. The superintendent of the Sherman Indian School, and their designees, shall have first option on all materials located at the Phoenix Indian High School and the Secretary shall take all steps necessary to move the materials chosen by the superintendent of the Sherman Indian School to the school as expeditiously as possible. Remaining property shall be made available to other off-reservation boarding schools.

(D) Subject to the provisions of subsection (d), the personnel ceilings at the Sherman Indian School shall be immediately adjusted to reflect employees who transfer from the Phoenix Indian High School and any increase in the student population projected by the closure.

(2) With respect to any employee employed at the Phoenix Indian

102 STAT. 4591

High School prior to the closure of the academic program—

(A) for the purpose of conducting the reduction in force associated with the closure of the Phoenix Indian High School, Phoenix Indian High School and the Sherman Indian School in Riverside, California shall be considered as one employment area; and

(B) for those who do not elect to exercise the above, or to whom they do not apply, outplacement assistance, including where available job retraining programs, professional résumé and other job placement assistance.

(B) The Secretary shall require, as a condition for making any grant to a public school district, the approval of the governing body of the Arizona Tribe the children of which are to be served by such grant.

(4)(A) An amount equal to 5 percent of the Trust Income during the preceding fiscal year shall be paid annually by the Secretary—

(i) to the InterTribal Council of Arizona from the Arizona InterTribal Trust Fund; and

(ii) to the governing body of the Navajo Tribe from the Navajo Trust Fund.

Education. Children and youth.

(B) Payments made under this paragraph shall be used for education, child welfare, community development, and general administrative purposes, and may be made only pursuant to an annual budget adopted by the vote of—

(i) a majority of the members of the InterTribal Council of Arizona, in the case of payments to the Arizona InterTribal Trust Fund; and

(ii) the governing body of the Navajo Tribe, in the case of payments to the Navajo Trust Fund.

(C) The limitation on the amount of payments under this paragraph shall not be construed as a limitation on the authority of the Secretary to make grants to the InterTribal Council of Arizona or the Navajo Tribe under paragraph (3).

(5) None of the Trust Income may be used for scholarship grants for higher education.

(e) ALLOCATION.—In depositing into the Trust Funds the Monetary Proceeds, any payment by the State of Arizona, or the cash proceeds from the sale of land within the School Property—

(1) the amount properly allocable to the Arizona InterTribal Trust Fund shall be 95 percent of the total amount of such payment or cash proceeds to the United States; and

(2) the amount properly allocable to the Navajo Trust Fund shall be 5 percent of the total amount of such payment or cash proceeds to the United States.

SEC. 406. ADMINISTRATION OF NEW LANDS FUNDS.—Subsection (c)(2)(B) of section 12 of Public Law 93-531 (25 U.S.C. 640d-11) is amended by adding at the end thereof of the following new clause:

102 STAT. 4593

"(B) : *Provided further,* That for administrative purposes such funds shall be maintained in a separate account.".

SEC. 407. CLARIFICATION OF ELIGIBILITY.—Public Law 93-531 is amended by adding at the end thereof the following new section:

25 USC 640d-31.

"SEC. 32. Nothing in this title prohibits the Commissioner from providing relocation assistance to families certified as eligible, regardless of their current place of residence, with funds appropriated to implement Public Law 93-531.".

TITLE V—SANTA RITA PUBLIC LANDS EXCHANGE

PAYMENT OF FEDERAL DEBT

SEC. 501. The Secretary of the Interior, acting through the Bureau of Land Management, shall convey to the State of Arizona, a portion of the lands in the Santa Rita Experiment Station lying outside of the National Forest System, (comprising 50,810.94 acres as generally depicted on map AZ-020-01, subpart A, dated September 13, 1988), which the Secretary deems necessary to satisfy the remaining Federal debt to the State of Arizona, as of the date of enactment of this title, for relinquishments of lands for the Central Arizona project pursuant to the provisions of the Act of June 20, 1910. The map referenced in this section shall be on file and available for public inspection in the offices of the Arizona State Bureau of Land Management and of the Bureau of Land Management in Washington, D.C.

LAND ACQUISITION

SEC. 502. (a) STATE LANDS ACQUISITION.—Upon completion of the actions authorized in section 501, the Secretary shall utilize the

remaining Federal lands in the Santa Rita Experiment Station, described in section 501, to acquire through exchange, pursuant to the exchange provisions of the Federal Land Policy Management Act of 1976, all of the State trust lands within Catalina State Park (as generally depicted on map AZ-020-02, subpart B, dated September 13, 1988), Buenos Aires National Wildlife Refuge (as generally depicted on map AZ-020-05, subpart A, dated September 13, 1988), the Black Canyon Corridor (as generally depicted on map AZ-020-03, Subpart A, dated September 13, 1988), Arivaca Lake (as generally depicted on map AZ-020-05, subpart B, dated September 13, 1988), the Madera-Elephant Head Trail area (as generally depicted on map AZ-020-01, subpart C, dated September 13, 1988), and near Lake Pleasant (as generally depicted on map AZ-020-03, subpart B, dated September 13, 1988). The maps described in this subsection shall be on file and available for public inspection in the offices of the Arizona State Bureau of Land Management and of the Bureau of Land Management in Washington, D.C.

Public information.

(b) ADDITIONAL ACQUISITION AUTHORITY.—The Secretary is also authorized to acquire the State lands described in subsection (a) by purchase or eminent domain to the extent determined by him to be appropriate.

(c) LANDS TO BE INCLUDED IN THE NATIONAL WILDLIFE REFUGE SYSTEM.—Those lands within the Buenos Aires National Wildlife Refuge that are acquired in accordance with this title shall be added to the National Wildlife Refuge System and managed in accordance with the National Wildlife Refuge System Administration Act of 1966.

102 STAT. 4594

(d) LANDS TO BE ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT.—Those lands near Lake Pleasant and within the Black Canyon Corridor that are acquired in accordance with this title shall be administered by the Bureau of Land Management, in accordance with the provisions of the Federal Land Policy and Management Act of 1976.

ADDITION TO THE CORONADO NATIONAL FOREST

SEC. 503. (a) INCLUSION IN NATIONAL FOREST SYSTEM.—Those lands in the Catalina State Park, Madera-Elephant Head Trail area, and the Arivaca Lake area that are acquired pursuant to this title, shall be included in the Coronado National Forest, and the exterior boundary of the Coronado National Forest shall be modified to include such lands on the date of acquisition by the United States. The Catalina State Park lands shall be managed cooperatively with the Arizona State Parks Department for public access and recreation purposes under the authorities of the National Forest System. Subject to valid existing rights, such lands are hereby withdrawn from all forms of—

National Forest System.

(1) entry, appropriation, or disposal under the public lands laws;

(2) location, entry, and patent under the United States mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing.

(b) LANDS EXEMPT FROM FURTHER PLANNING.—The lands added to the Coronado National Forest by this section shall be administered under the laws and regulations applicable to National Forest System lands except that the lands described in this section shall be exempt from any further planning requirements of the National Forest Management Act of 1976 until the final 1986 forest plan for the Coronado National Forest is revised. At that time, future management direction for these lands will be determined as a part of planning for the entire national forest.

REVOCATION OF SANTA RITA RANGE EXECUTIVE AND PUBLIC LAND ORDERS

SEC. 504. (a) REVOCATION.—Notwithstanding any other provision of law, in order to facilitate the transfer of certain Federal lands,

Executive Order 1222 dated July 1, 1910, and Public Land Order 1363 dated November 14, 1956, which withdrew the Santa Rita Experimental Range for a forest and range experiment station, are hereby revoked in their entirety.

(b) EFFECTIVE DATE.—The effective date of the revocation made by this section shall be—

(1) for those lands lying within the National Forest System the date of enactment of this title; or

(2) for those lands lying outside of the National Forest System the date of transfer of patent to the State of Arizona.

WITHDRAWALS FOR ADMINISTRATIVE SITE

SEC. 505. (a) WITHDRAWAL.—Subject to valid existing rights, the following described lands within the Coronado National Forest are
102 STAT. 4595 hereby withdrawn from all forms of—

(1) entry, appropriation, or disposal under the public lands laws;

(2) location, entry, and patent under the United States mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing:

All of section 19, the SW¼NW¼, and W½SW¼ of section 20, the N½NE¼ of section 30; all in T. 19 S., R. 15 E., G&SRM; containing approximately 751.04 acres. (Florida Canyon)

Such lands shall be used for research purposes in accordance with applicable law.

(b) REVOCATION OF ORDER.—Notwithstanding any other provision of law, in order to facilitate the administration of the Federal lands described in subsection (a), Public Land Order 1080, dated February 28, 1955, which withdrew lands for forest administrative sites, is hereby revoked as it relates in sec. 19, T. 19 S., R. 15 E., G&SRM.

WITHDRAWALS FOR KOFA NATIONAL WILDLIFE REFUGE

SEC. 506. Subject to valid existing rights, all federally owned lands within the Kofa National Wildlife Refuge as of the date of enactment of this title are hereby withdrawn from all forms of—

(a) entry, appropriation, or disposal under the public land laws;

(b) location, entry, and patent under the United States mining laws; and

(c) disposition under all laws pertaining to mineral and geothermal leasing.

REVOCATION OF RECLAMATION WITHDRAWALS

SEC. 507. (a) IN GENERAL.—Notwithstanding any other provision of law, in order to facilitate the transfer of certain Federal lands—

(1) Secretarial Orders dated January 31, 1903, September 8, 1903, June 4, 1930, and October 16, 1931, which withdrew lands from the Colorado River Storage Project and Executive Order 8647 dated January 22, 1941, and Public Land Order 4417 dated May 20, 1968, which withdrew lands for the Havasu National Wildlife Refuge, and Executive Order 8685 dated February 14, 1941, which withdrew lands for the Imperial National Wildlife Refuge are hereby revoked on the following described lands under the administration of the Fish and Wildlife Service:

Sec. 17. T. 5 S., R. 21 W.; portions of secs. 17, 20, 28, and 33, T. 14 N., R. 20 W.; portions of secs. 3 and 10, T. 16 N., R. 21 W.; and portions of secs. 21, 27, and 34, T. 17 N., R. 21 W.; all in G&SRM.

The effective date of the revocation shall be the date of patent to the State of Arizona.

(2) Secretarial Orders dated July 2, 1902, and February 10, 1906, which withdrew certain lands in aid of the Salt River Project, are hereby revoked on the following described lands:

Lots 7, 9, 11, 13, through 15, and 17 through 29 of section 24, T. 2 N., R. 6 E., G&SRM.

The effective date of the revocation shall be the date of patent to the State of Arizona.

(b) PATENTS.—The following stipulations shall be included in all patents issued by the Secretary of the Interior for the lands described in subsection (a)(2): 102 STAT. 4596

(1) Excepting and reserving to the Salt River Project, a right-of-way for electric transmission and distribution lines and access purposes which shall comprise that portion of the east 300 feet of section 24, lying west of a line extending northerly from a point on the south section line of section 24, being 51 feet west of the southeast corner of section 24 to a point on the north section line of section 24, being 129 feet west of the northeast corner of section 24, as generally depicted on the Salt River Project drawing number C-675-439.88, dated June 1988;

(2) The United States and the Salt River Project shall not be liable whatsoever for damages to any lands conveyed herein, which may be caused by flooding in conjunction with any of the United States' or Salt River Project's existing or future facilities or protective works;

(3) The patentee, successors or assigns of the lands conveyed herein shall be held liable to the United States or the Salt River Project for damages caused by the holder's activities which alter drainage and adversely affect adjacent lands, project facilities or protective works of the United States or the Salt River Project; and

(4) Reserving to the United States a right-of-way for road purposes, as described in Bureau of Land Management A.R. 020234.

ADJUSTMENT OF CORONADO NATIONAL FOREST BOUNDARY

SEC. 508. (a) MODIFICATION OF PROCLAMATION 1121.—Proclamation 1121, dated April 17, 1911, which established the Coronado National Forest boundary as it related to Township 21 South, Range 18 East, G&SRM, is hereby modified to delete sections 27 and 28, which are not under the jurisdiction of the Forest Service, from inclusion within the National Forest System.

(b) MODIFICATION OF PROCLAMATION DATED JULY 19, 1907.—The proclamation dated July 19, 1907, which established the Coronado National Forest boundary as it is related to Township 15 South, Range 17 East, Gila and Salt River Meridian, is hereby modified to delete sections 9, 10, 15 and 22, which are not under the jurisdiction of the Forest Service, from inclusion within the National Forest System.

AUTHORIZATION

SEC. 509. (a) GENERAL APPROPRIATION.—There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this title.

(b) PERSONNEL.—There are hereby authorized to be appropriated such sums as are necessary to provide for at least 5 and more, if necessary, full-time equivalent employees of the Bureau of Land Management to perform resource management and law enforcement activities as part of the administration of the Bureau of Land Management lands in Black Canyon Corridor.

SEC. 510. The Director of the United States Fish and Wildlife Service shall approve or disapprove applications for rights-of-way access across the Kofa National Wildlife Refuge as expeditiously as possible.

102 STAT. 4597

TITLE VI—MOUNT GRAHAM INTERNATIONAL OBSERVATORY

ESTABLISHMENT OF THE MOUNT GRAHAM INTERNATIONAL OBSERVATORY SITE

SEC. 601. (a) The Secretary of Agriculture (hereinafter in this title referred to as the "Secretary") shall issue a Special Use Authorization, subject to the terms and conditions of Reasonable and Prudent Alternative Three of the United States Fish and Wildlife Service Biological Opinion, dated July 14, 1988 (hereinafter referred to as "the Biological Opinion"), to the State of Arizona Board of Regents on behalf of the University of Arizona for the establishment of the Mount Graham International Observatory Research Site (hereinafter referred to as the "Site"), which shall, subject to any subsequent biological opinions issued by the United States Fish and Wildlife Service under the Endangered Species Act, and the provisions of this title, include provision for seven telescopes and necessary support facilities, for the purposes of scientific and astronomical research.

Public information.

(b) The Site referred to in subsection (a) shall include not more than 24 acres within the 150-acre area of the Coronado National Forest, Arizona, as generally depicted on a map entitled, "Mount Graham International Observatory Site", dated July 28, 1988. Copies of the map shall be available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture, Washington, District of Columbia, and the Forest Service office located in Tucson, Arizona.

CONSTRUCTION AUTHORIZATION

SEC. 602. (a) Subject to the terms and conditions of Reasonable and Prudent Alternative Three of the Biological Opinion, the requirements of section 7 of the Endangered Species Act shall be deemed satisfied as to the issuance of a Special Use Authorization for the first three telescopes and the Secretary shall immediately approve the construction of the following items:

(1) three telescopes to be located on Emerald Peak;
(2) necessary support facilities; and
(3) an access road to the Site.

(b) Until the road described in subsection (a)(3) above is constructed, the Secretary shall allow the University of Arizona to use forest roads FR 507 and FR 669 to the extent permitted in the Biological Opinion.

ADDITIONAL TELESCOPE CONSTRUCTION AUTHORIZATION

SEC. 603. (a) The Secretary shall, subject to the requirements of the Endangered Species Act and other applicable law, authorize the construction of four additional telescopes on Emerald Peak.

(b) Consultation under section 7(a)(2) of the Endangered Species Act with respect to construction of the four additional telescopes referred to in subsection (a) shall consider, among other things, all biological data obtained from monitoring the impact of construction of the first three telescopes upon the Mount Graham red squirrel. Authorization by the Secretary for the construction of four additional telescopes shall be consistent with requirements deemed necessary to avoid jeopardizing the continued existence of any species listed under and pursuant to the Endangered Species Act.

102 STAT. 4598

MANAGEMENT PLAN

SEC. 604. (a) The University of Arizona, with the concurrence of the Secretary, shall develop and implement a management plan, consistent with the requirements of the Endangered Species Act and with the terms and conditions of Reasonable and Prudent Alternative Three of the Biological Opinion, for the Site.

(b) Such management plan shall include provisions for the construction, operation and maintenance of the Site, access to the Site, and related support facilities.

(c) The management plan shall be included in any Special Use Authorization issued by the Secretary to the University of Arizona.

EXISTING SPECIAL USE AUTHORIZATIONS

SEC. 605. (a) Those Special Use Authorizations now in effect for the Columbine Summer Home Tract area and the Arizona Bible School Organization Camp shall continue, subject to the terms and conditions of the authorizations, for the duration of the term specified in each authorization. Prior to the termination, nonrenewal or modification of those Special Use Authorizations for the area noted above, the Secretary shall, with the assistance of the United States Fish and Wildlife Service, conduct a biological study to determine the effects of such special use authorizations upon the Mount Graham red squirrel and other threatened or endangered species. In making this determination, the Secretary shall consider the small amount of land under special use authorizations. The biological study shall also involve the participation of representatives from the community of Safford, Arizona, all of the affected parties, and any other appropriate interests. In addition to the biological study, the Secretary shall initiate consultation with the United States Fish and Wildlife Service pursuant to section 7(a)(2) of the Endangered Species Act regarding the termination, nonrenewal, extension or modification of the special use authorizations.

(b) Pursuant to title 2300 of the Forest Service Manual, special use terminations, nonrenewal, or modifications shall not take effect until ten years from the last date of the tenure of existing special use authorizations described in subsection (a). Unless the biological study or the biological opinion issued by the United States Fish and Wildlife Service after consultation under the Endangered Species Act concluded that an earlier date was necessary to avoid jeopardizing the continued existence of the Mount Graham red squirrel or any other threatened or endangered species, such actual terminations, nonrenewals, or modifications shall not take effect before completion of a biological study by the United States Fish and Wildlife Service to begin in the year 2000. This additional study shall be subject to the same requirements and involve the same participants as described in subsection (a).

(c) If, after completion of these studies, termination, modification or nonrenewal of special use authorizations described in subsection (a) are prescribed, the United States Forest Service shall, with the cooperation and approval of the holders of these special use authorizations, develop a relocation plan for such individuals and entities.

102 STAT. 4599

(d) Nothing in this section is intended to preclude the termination of special use authorizations for breach by the permittee of terms and conditions of the authorizations.

FINANCIAL RESPONSIBILITIES

SEC. 606. In implementing this title, all costs directly associated with construction and site preparation for telescopes, support facilities, a new access road, the biological monitoring program for the Mount Graham red squirrel as contained in the terms and conditions of Reasonable and Prudent Alternative Three of the Biological Opinion, and the retention of an onsite biologist, shall be funded by the University of Arizona.

ENVIRONMENTAL IMPACT STATEMENTS

SEC. 607. With reference to the construction of the first three telescopes, related facilities, and the access road within the boundaries of the Site described in section 601, the requirements of section

ESTABLISHMENT OF THE ARIZONA INDIAN TRUST FUNDS

SEC. 405. (a) ESTABLISHMENT.—Upon disposal of the School Property and receipt by the United States of the Monetary Proceeds, there shall be established in the Treasury of the United States—

(1) a fund to be known as the Arizona InterTribal Trust Fund; and

(2) a fund to be known as the Navajo Trust Fund.

(b) AMOUNTS IN FUNDS.—Each Trust Fund established under this section shall consist of—

(1) an amount equal to the sum of—

(A) that portion of the Monetary Proceeds properly allocable to each such Trust Fund;

(B) that portion of the cash proceeds from the sale by the United States to the City or the Purchaser of additional acres of land within the School Property pursuant to subsection (g)(5) of section 402 of this title properly allocable to each such Trust Fund; and

(C) any interest accruing on any amount deposited in each such Trust Fund,

(2) less the amount of Trust Income from the Trust Fund used by the Secretary pursuant to subsection (d).

(c) INVESTMENT.—(1) If a Trust Fund Payment is made in the form of a lump sum payment under section 403(c)(1) of this title, the Secretary of the Treasury shall invest the amount of such lump sum payment in interest-bearing deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162a).

(2) If a Trust Fund Payment is made in the form of annual payments under section 403(c)(2) of this title, the Secretary of the Treasury shall hold in trust the security provided in accordance with the Trust Fund Payment Agreement.

(3) At the direction of the Secretary, the Secretary of the Treasury may invest in accordance with the requirements of paragraph (1) any portion of the Trust Income not used by the Secretary in any year.

(d) USE OF TRUST INCOME.—(1) The purpose of these trust funds is to supplement, not supplant, current Federal efforts. The Secretary shall not reduce, rescind, alter or change any distribution of funds to which any Indian tribe or students covered by this section may otherwise be entitled or eligible under any other Federal authority. The Congress also expresses its intention that in determining the amount of any funds to provide services to Indian tribes or students covered by this section, there shall be no amendment, alteration, limitation, or reduction within future congressional action occasioned by the presence of these funds.

(2) Trust Income may be used only for— 102 STAT. 4592

(A) supplemental educational and child-welfare programs, activities, and services for the benefit of— Education. Children and youth.

(i) those Arizona Tribes that were members of the Inter-Tribal Council of Arizona on January 1, 1988, in the case of payments from the Arizona InterTribal Trust Fund; and

(ii) the Navajo Tribe, in the case of payments from the Navajo Trust Fund;

(B) the design, construction, improvement, or repair of related facilities; and

(C) the payments referred to in paragraph (4).

(3)(A) To carry out the purposes of paragraph (2), the Secretary, pursuant to appropriations, may make grants—

(i) from the Arizona InterTribal Trust Fund to Arizona tribes that were members of the InterTribal Council of Arizona on January 1, 1988, public school districts on or near reservations of such Tribes in the State of Arizona, and the InterTribal Council of Arizona; and

(ii) from the Navajo Trust Fund to the Navajo Tribe or public school districts on or near the Navajo Reservation in the State of Arizona.

(B) A financial plan to provide and support the public improvements and services recommended in the plan; and a mechanism for coordinating local, regional, State, and Federal planning to promote the purposes of this subtitle.

(C) How the goals and policies of the management plan will be compatible with the existing channel maintenance program on the Mississippi River, and the existing Federal, State, regional, and local programs and goals on the Minnesota and Saint Croix Rivers. 102 STAT. 4603

(D) The provisions of the Clean Water Act and the Safe Drinking Water Act (title XIV of the Public Health Service Act) which pertain to the surface waters of the Mississippi National River and Recreation Area.

(3) A coordination and consistency component which details the ways in which local, State, and Federal programs and policies may best be coordinated to promote the purposes of this subtitle.

(4) A program for the coordination and consolidation, to the extent feasible, of permits that may be required by Federal, State, and local agencies having jurisdiction over land and waters within the Area.

(j) DEVELOPMENT OF PLAN.—

(1) In developing the plan the Commission shall consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the Area.

(2) In developing the plan the Commission shall consult with interested conservation, business, professional and citizen organizations.

(3) In developing the plan the Commission shall conduct public hearings within the Area, and at such other places as may be appropriate, for the purposes of providing interested persons with the opportunity to testify with respect to matters to be addressed by the plan.

(k) APPROVAL OF PLAN.—The Commission shall submit the plan to the Secretary and the Governor of Minnesota, for their review. The Governor shall act on the plan within 90 days and shall submit the plan to the Secretary along with any recommendations. The Secretary shall approve or disapprove the plan within 90 days. In reviewing the plan the Secretary shall consider each of the following:

(1) The adequacy of public participation.

(2) Assurances of plan implementation from State and local officials.

(3) The adequacy of regulatory and financial tools that are in place to implement the plan.

(4) Plan provisions for continuing oversight of the plan implementation by the Secretary and the Governor of Minnesota.

If the Secretary disapproves the plan, he shall, within 60 days after the date of such disapproval advise the Governor and Commission in writing of the reasons therefor, together with his recommendations for revision. The Commission shall within 90 days of receipt of such notice of disapproval revise and resubmit the plan to the Governor for his review. Following his review, the Governor shall submit the revised plan, together with any recommendations he may have, to the Secretary who shall approve or disapprove the revision within 60 days.

(l) INTERIM PROGRAM.—Prior to the adoption of the Commission's plan, the Secretary and the Commission shall monitor all land and water use activities within the Area to ensure that said activities are in keeping with the purposes of this subtitle, and shall advise and cooperate with the appropriate Federal, State, and local governmental entities to minimize adverse impacts on the values for which the Area is established.

(m) COMMISSION REVIEW.—The Commission shall assist the Secretary and the Governor of Minnesota in reviewing and monitoring

102(2)(c) of the National Environmental Policy Act of 1969 shall be deemed to have been satisfied. The Environmental Impact Statement for the Site, currently in process, shall continue and shall use the information developed to date and any additional appropriate information in analyzing the impacts of the four additional telescopes authorized under section 603 of this title.

Minnestoa. Water. Historic preservation.

TITLE VII—MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

Subtitle A—Mississippi National River and Recreation Area

FINDINGS AND PURPOSES

16 USC 460zz.

SEC. 701. (a) FINDINGS.—The Congress finds that:

(1) The Mississippi River Corridor within the Saint Paul-Minneapolis Metropolitan Area represents a nationally significant historical, recreational, scenic, cultural, natural, economic, and scientific resource.

(2) There is a national interest in the preservation, protection and enhancement of these resources for the benefit of the people of the United States.

(3) State and local planning efforts along the River Corridor provide a unique foundation for coordinating Federal, State, and local planning and management processes.

(4) Existing Federal agency programs lack sufficient coordination and financial participation with State and local planning and regulatory authorities to provide for adequate and comprehensive resource management and economic development consistent with the protection of the Mississippi River Corridor's nationally significant resources, and the public use and enjoyment of the area.

(5) The preservation, enhancement, enjoyment, and utilization of the nationally significant resources of the Mississippi River Corridor can be accomplished by a cooperative Federal, State, and local comprehensive planning and management effort.

102 STAT. 4600

(b) PURPOSES.—The purposes of this subtitle are:

(1) To protect, preserve and enhance the significant values of the waters and land of the Mississippi River Corridor within the Saint Paul-Minneapolis Metropolitan Area.

(2) To encourage adequate coordination of all governmental programs affecting the land and water resources of the Mississippi River Corridor.

(3) To provide a management framework to assist the State of Minnesota and its units of local government in the development and implementation of integrated resource management programs for the Mississippi River Corridor in order to assure orderly public and private development in the area consistent with the findings of this subtitle.

ESTABLISHMENT OF NATIONAL RIVER AND RECREATION AREA

16 USC 460zz-1.

SEC. 702. (a) ESTABLISHMENT.—There is hereby established the Mississippi National River and Recreation Area (hereinafter in this title referred to as the "Area") which shall consist of the State designated Mississippi Critical Area encompassing that portion of the Mississippi River and adjacent lands generally within the Saint Paul-Minneapolis Metropolitan Area, as depicted on the map entitled Mississippi National River and Recreation Area numbered MI-NRA/80,000 and dated April 1987. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, District of Columbia, and in the offices of the Metropolitan Council of the Twin Cities Area in Saint Paul, Minnesota.

Public information. District of Columbia. Federal Register, publication.

(b) BOUNDARIES.—The Secretary of the Interior (hereinafter referred to as the "Secretary") shall publish in the Federal Register, as soon as practicable after the enactment of this title a detailed description and map of the boundaries established under subsection (a).

MISSISSIPPI RIVER COORDINATING COMMISSION

SEC. 703. (a) ESTABLISHMENT.—There is hereby established a Mississippi River Coordinating Commission whose purpose shall be to assist Federal, State, and local authorities in the development and implementation of an integrated resource management plan for those lands and waters as specified in section 702. The Commission shall consist of the following 22 members appointed by the Secretary of the Interior: 16 USC 460zz-2.

(1) The Director of the National Park Service, or his designee.

(2) The Chief of the Corps of Engineers, or his designee.

(3) The Director of the Fish and Wildlife Service, or his designee.

(4) Three individuals, from recommendations by the Governor of Minnesota, to represent the Minnesota Department of Natural Resources, Department of Transportation, and Minnesota Environmental Quality Board.

(5) One individual, to represent the Minnesota Historical Society.

(6) One individual, to represent the Metropolitan Council of the Twin Cities Area.

(7) Four elected officials, to represent the cities of Saint Paul and Minneapolis.

102 STAT. 4601

(8) Four elected officials, from recommendations by the Governor of Minnesota, to represent the interests of the other affected municipalities and counties.

(9) One individual, to represent the Metropolitan Parks and Open Spaces Commission.

(10) One individual, from recommendations by the Governor of Minnesota, to represent the interests of commercial navigation.

(11) Four individuals, from recommendations by the Governor of Minnesota, to be chosen from the general public.

(b) TERMS.—(1) Except as provided in paragraphs (2) and (3), members (other than ex officio members) shall be appointed for terms of three years.

(2) Of the members first appointed—

(A) Under paragraph (4) of subsection (a):

(i) One shall be appointed for a term of one year.

(ii) One shall be appointed for a term of two years.

(B) Under paragraphs (7) and (8) of subsection (a), one shall be appointed for a term of one year.

(C) Under paragraph (11) of subsection (a):

(i) One shall be appointed for a term of one year.

(ii) One shall be appointed for a term of two years.

(iii) One shall be appointed for a term of four years.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(c) COMPENSATION.—Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(d) CHAIRPERSON.—The Chairperson of the Commission shall be appointed by the Secretary from among the members of the

Commission nominated by the Governor of Minnesota to serve for a term of three years.

(e) QUORUM.—Twelve members of the Commission shall constitute a quorum.

(f) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

(g) DEVELOPMENT OF POLICIES AND PROGRAMS.—As a coordinator and advisory organization, the Commission shall assist the Secretary, the State of Minnesota and local units of government, endeavoring to use existing Federal, State, regional, and local plans and programs where consistent with the intent and goals of this subtitle, in developing the following:

(1) Policies and programs for the preservation and enhancement of the environmental values of the Area.

(2) Policies and programs for enhanced public outdoor recreation opportunities in the Area.

(3) Policies and programs for the conservation and protection of the scenic, historical, cultural, natural and scientific values of

102 STAT. 4602

the Area.

(4) Policies and programs for the commercial utilization of the Area and its related natural resources, consistent with the protection of the values for which the Area is established as the Mississippi National River and Recreation Area.

(h) STAFF.—The Secretary shall provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties. Upon request of the Secretary, any Federal agency may provide information, personnel, property, and services on a reimbursable basis, to the Commission to assist in carrying out its duties under this subtitle. The Secretary may accept the services of personnel detailed from the State of Minnesota or any political subdivision of the State and may reimburse the State or such political subdivision for such services. The Commission may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code.

(i) PLAN.—Within 3 years after enactment of this Act, the Commission shall submit to the Secretary and the Governor of Minnesota a comprehensive plan for land and water use measures for the area to be developed and implemented by the responsible Federal agencies, the State of Minnesota, and local political subdivisions. The plan shall endeavor to use existing Federal, State, regional, and local plans and where consistent with the intent and goals of this subtitle shall coordinate those plans to present a unified comprehensive plan for the Area. The plan shall include but not be limited to each of the following:

(1) A program for management of existing and future land and water use which—

(A) considers and details the application of a variety of land and water protection and management techniques;

(B) includes a policy statement for the use of Federal, State, and local regulatory responsibilities to manage land and water resources in a manner consistent with the purposes of this subtitle; and

(C) recognizes existing economic activities within the area and provides for the management of such activities, including barge transportation and fleeting and those indigenous industries and commercial and residential developments which are consistent with the findings and purposes of this subtitle.

(2) A program providing for coordinated implementation and administration of the plan with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, State, regional and local levels, including each of the following:

(A) Ways in which local, regional, State, and Federal policies and permits may better be coordinated to the goals and policies of this subtitle.

102 STAT. 4604

the implementation of the plan by Federal, State, and local governmental agencies having jurisdiction in the Area. The Commission may, after providing, for public comment and subject to the review and approval, as set forth in subsection (k), modify said plan, if the Commission determines that such modification is necessary to further the purposes of this subtitle.

(n) TERMINATION OF COMMISSION.—The Commission shall terminate on the date 10 years after the enactment of this subtitle. Following termination of the Commission the State is authorized to establish a State Commission which shall exercise the functions and authorities described in subsection (m). The Secretary of the Interior and the Secretary of the Army are authorized and directed to participate as members of such State Commission.

FEDERAL LANDS AND DEVELOPMENTS

16 USC 460zz-3.

SEC. 704. (a) LANDS.—Notwithstanding any other provision of law, any Federal property located within the boundaries of the Area as identified on the map referred to in section 702, is hereby transferred without consideration to the administrative jurisdiction of the Secretary for use by him in implementing the purposes of this subtitle, except as follows:

(1) Facilities and lands administered by the Secretary of the Army through the Corps of Engineers for navigational and flood control purposes may continue to be used by the Secretary of the Army subject to the provisions of subsection (b).

(2) Federal property on which there is located any building or other structure which is in use (as of the enactment of this subtitle) or for which a lease is in effect shall not be transferred under this subsection without the concurrence of the administering agency.

(b) FEDERAL AGENCY ACTIVITIES.—

(1) IN GENERAL.—Before any department, agency, or instrumentality of the United States issues or approves any license or permit for any facility or undertaking within the Area and before any such department, agency, or instrumentality commences any undertaking or provides any Federal assistance to the State or any local governmental jurisdiction for any undertaking within the Area, the department, agency, or instrumentality shall notify the Secretary. The Secretary shall review the proposed facility or undertaking to assess its compatibility with the plan approved under section 703. The Secretary shall make a determination with respect to the compatibility or incompatibility of a proposed facility or undertaking within 60 days of receiving notice under this subsection. If the Secretary determines that the proposed facility or undertaking is incompatible with the plan, he shall immediately notify such Federal department, agency, or instrumentality and request such department, agency, or instrumentality to take the actions necessary to conform the proposed facility or undertaking to the plan. The Federal department, agency, or instrumentality shall, within 60 days after receiving the Secretary's request, notify the Secretary of the specific decisions made in response to the request. To the extent that such department, agency, or instrumentality does not then conform such facility or undertaking to the request of the Secretary, the Secretary is directed

102 STAT. 4605

to notify the Congress in writing of the incompatibility of such facility or undertaking with the plan approved under section 703.

(2) NAVIGATION.—(A) Nothing in this subtitle shall be deemed to impact or otherwise affect such existing statutory authority as may be vested in the Secretary of the Department in which the Coast Guard is operating or the Secretary of the Army for the maintenance of navigation aids and navigation improvements: *Provided*, That in exercising such authority the Secretary of the Army, through the Corps of Engineers and the

Secretary of the Department in which the Coast Guard is operating, shall not take any action that would have a direct and adverse effect on the values for which the Area is established unless such action is essential for the protection of public health or safety or is necessary for national security or defense.

(B) In planning for the development and public use of the Area, the Secretary shall consult with the Secretary of the Army to assure that public use of adjacent or related water resource developments or flood control projects and that of the Area are compatible.

ADMINISTRATION

SEC. 705. (a) AUTHORITIES.—The Secretary shall administer the Area in accordance with this subtitle. Only those lands within the Area under the direct jurisdiction of the Secretary shall be administered in accordance with the provisions of law generally applicable to units of the National Park System. Our lands and waters within the Area shall be administered under State and local laws. In the case of any conflict between the provisions of this subtitle and such generally applicable provisions of law, the provisions of this subtitle shall govern. 16 USC 460zz-4.

(b) STATE AND LOCAL AUTHORITIES.—The Secretary shall consult and cooperate with the State of Minnesota and its political subdivisions concerning the development and management of Federal lands within the Area.

(c) LAND ACQUISITION.—Within the boundaries of the Area, the Secretary is authorized, in consultation with the State of Minnesota and the affected local governmental unit, to acquire land and interests therein by donation, purchase with donated or appropriated funds, exchange or transfer, except as provided in paragraphs (1) and (2).

(1) Any lands or interests therein owned by the State of Minnesota or any political subdivision thereof may be acquired only by donation. Gifts and property.

(2) Privately owned lands or interests therein may be acquired only with the consent of the owner thereof unless the Secretary makes a determination pursuant to subsection (d)(2). In no event may the Secretary use the authority provided in subsection (d)(3) to acquire land or interests in land without the owner's consent for any use exercised prior to January 1, 1987, that is consistent with the plan under section 703.

(d) REVIEW OF LOCAL PLANS.—

(1) AUTHORITY.—For the purpose of protecting the integrity of the Area the Secretary shall cooperate and consult with the State and the appropriate political subdivisions to review all relevant local plans, laws and ordinances to determine whether they substantially conform to the plan approved pursuant to section 703. Additionally the Secretary shall in consultation with the State and its political subdivisions determine the adequacy of enforcement of such plans, laws, and ordinances, including review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances. The Secretary shall enter into agreements with the State or its political subdivisions to provide, on behalf of the Secretary, professional services necessary for the review of such local plans, laws, and ordinances, and of amendments thereto and variances therefrom, and for the monitoring or the enforcement thereof by local governments having jurisdiction over any areas to which the management plan applies. 102 STAT. 4606

Contracts. State and local governments.

(2) PURPOSE.—The purpose of review under paragraph (1) shall be to determine the degree to which actions by local governments are compatible with the purposes of this title. Following the approval of the plan under section 703 and after a reasonable period of time has elapsed, upon a finding by the Secretary that such plans, laws and ordinances are nonexistent, are otherwise not in conformance with the plan or are not being

enforced in a manner consistent with the plan, and if the Secretary detemines that there is no feasible alternative available to prevent uses which would be substantially incompatible with the plan, the Secretary may exercise the authority available to him under the provisions of paragraph (3).

(3) ENFORCEMENT.—In those sections of the Area where local plans, laws and ordinances, or amendments thereto or variances therefrom are found by the Secretary not to be in conformance with the plan approved pursuant to section 703, or are not being enforced in a manner consistent with the plan, the Secretary shall notify the local government authority concerned. The Secretary may withhold from the local government authority concerned or, require reimbursement of, (A) Federal funds made available for implementation of the plan, or (B) any grant under section 706(a) if the local plan, law, ordinance, amendment, or variance is not modified to conform with the plan and enforced in such manner as will carry out the purposes of this subtitle. If the State has not initiated, within a 60-day period, such judicial or other action as necessary to ensure conformity with the plan, and if noncompliance with the plan or failure to enforce the plan continues after the end of such 60-day period, the Secretary may acquire, subject to appropriations, land or interests in land under this subsection without the consent of the owner thereof. Land and interests in land acquired pursuant to this subsection shall be restricted to the geographical area of the local government unit failing to conform with the plan and shall be limited to those lands clearly and directly required, in the judgment of the Secretary, for the protection of the Area in a manner compatible with the plan.

(e) RETENTION BY OWNER OF USE AND OCCUPANCY.—The Secretary may permit the owner or owners of any improved residential property acquired by the Secretary under this subtitle to retain a right of use and occupancy of the property for noncommerical residential uses not incompatible with the plan approved under section 703. The provisions of subsection (c), (d), and (e) of section 102 of the Act of August 15, 1978 (16 U.S.C. 460ii-1) shall apply to the retention of such rights, except that for purposes of this subtitle, the applicable date shall be January 1, 1987 in lieu of January 1, 1975 and the purposes of this subtitle shall be substituted for the purposes referred to in section 102(d) of such Act.

102 STAT. 4607

STATE AND LOCAL ASSISTANCE AND JURISDICTION

16 USC 460zz-5.

SEC. 706. (a) GRANTS.—Upon approval of the plan under section 703, the Secretary is authorized to make grants to the State of Minnesota, or its political subdivisions, to cover not more than 50 percent of the cost of acquisition and development within the Area of lands and waters or interests therein in a manner consistent with the purposes of this subtitle.

(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with the State of Minnesota or any political subdivision thereof pursuant to which he may assist in the planning for and interpretation of non-Federal publicly owned lands within the Area.

(c) TECHNICAL ASSISTANCE.—To enable the State of Minnesota and its political subdivisions to develop and implement programs compatible with the plan, the Secretary shall provide such technical assistance to the State and its political subdivisions as he deems appropriate.

(d) STATE AND LOCAL JURISDICTION.—Nothing in this subtitle shall diminish, enlarge, or modify any right of the State of Minnesota or any political subdivision thereof, to exercise civil and criminal jurisdiction or to carry out State fish and wildlife laws, rules, and regulations within the Area, or to tax persons, corporations, franchises, or private property on the lands and waters included in the Area.

AUTHORIZATION OF APPROPRIATIONS

SEC. 707. There is authorized to be appropriated such sums as may be necessary to carry out this subtitle. 16 USC 460zz-6.

Subtitle B—Tri-Rivers Management

TRI-RIVERS MANAGEMENT BOARD

SEC. 711. (a) FEDERAL REPRESENTATIVES.—In furtherance of the integrated management of those portions of the Mississippi, Saint Croix, and Minnesota Rivers within the Saint Paul-Minneapolis Metropolitan Area, the Secretary of the Interior and the Secretary of the Army are authorized and directed to appoint representatives to a Tri-Rivers Management Board (hereinafter referred to as the "Board"), or any similar organization, which may be established by the State of Minnesota to assist in the development and implementation of consistent and coordinated land use planning and management policy for such portions of such rivers. 16 USC 460zz-11.

(b) PERSONNEL.—Upon request of the Board, the Secretary of the Interior and the Secretary of the Army may detail, on a reimbursable basis, any personnel to the Board.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to carry out the purposes of this subtitle the sum of $100,000 annually; except that the Federal contribution to the Board shall not exceed one-third of the annual operating costs of the Board.

102 STAT. 4608

TITLE VIII—UNITED STATES CAPITOL PRESERVATION COMMISSION

UNITED STATES CAPITOL PRESERVATION COMMISSION

SEC. 801. (a) ESTABLISHMENT AND PURPOSES.—There is established in the Congress the United States Capitol Preservation Commission (hereinafter in this title referred to as the "Commission") for the purposes of— 40 USC 188a.

(1) providing for improvements in, preservation of, and acquisitions for, the United States Capitol;

(2) providing for works of fine art and other property for display in the United States Capitol and at other locations under the control of the Congress; and

(3) conducting other activities that directly facilitate, encourage, or otherwise support any purposes specified in paragraph (1) or (2).

(b) MEMBERSHIP.—The Commission shall be composed of the following Members of Congress:

(1) The President pro tempore of the Senate and the Speaker of the House of Representatives, who shall be co-chairmen.

(2) The Chairman and Vice-Chairman of the Joint Committee on the Library.

(3) The Chairman and the ranking minority party member of the Committee on Rules and Administration of the Senate, and the Chairman and the ranking minority party member of the Committee on House Administration of the House of Representatives.

(4) The majority leader and the minority leader of the Senate.

(5) The majority leader and the minority leader of the House of Representatives.

(6) The Chairman of the Commission on the Bicentennial of the United States Senate and the Chairman of the Commission of the House of Representatives Bicentenary, to be succeeded upon expiration of such commissions, by a Senator or Member of the House of Representatives, as appropriate, appointed by the Senate or House of Representatives co-chairman of the Commission, respectively.

(7) One Senator appointed by the President pro tempore of the Senate and one Senator appointed by the minority leader of the Senate.

(8) One Member of the House of Representatives appointed by the Speaker of the House of Representatives and one Member of the House of Representatives appointed by the minority leader of the House of Representatives.

(c) DESIGNEES.—Each member of the Commission specified under subsection (b) (other than a member under paragraph (7) or (8) of such subsection) may designate a Senator or Member of the House of Representatives, as the case may be, to serve as a member of the Commission in place of the member so specified.

(d) ARCHITECT OF THE CAPITOL.—In addition to the members under subsection (b), the Architect of the Capitol shall participate in the activities of the Commission, ex officio, and without the right to vote.

(e) STAFF SUPPORT AND ASSISTANCE.—The Senate Commission on Art, the House of Representatives Fine Arts Board, and the Architect of the Capitol shall provide to the Commission such staff support and assistance as the Commission may request.

102 STAT. 4609

AUTHORITY OF COMMISSION TO ACCEPT GIFTS AND CONDUCT OTHER TRANSACTIONS RELATING TO WORKS OF FINE ART AND OTHER PROPERTY

40 USC 188a-1.

SEC. 802. (a) IN GENERAL.—In carrying out the purposes referred to in section 801(a) the Commission is authorized—

(1) to accept gifts of works of fine art, gifts of other property, and gifts of money; and

(2) to acquire property, administer property, dispose of property, and conduct other transactions related to such purposes.

(b) TRANSFER AND DISPOSITION OF WORKS OF FINE ART AND OTHER PROPERTY.—The Commission shall, with respect to works of fine art and other property received by the Commission—

(1) upon agreement with the Joint Committee on the Library, the Senate Commission on Art, or the House of Representatives Fine Arts Board, as the case may be, transfer such property to the entity with which the agreement is made,

(2) if a transfer described in paragraph (1) is not appropriate, dispose of the work of fine art by sale or other transaction; and

(3) in the case of property that is not directly related to the purposes referred to in section 801(a), dispose of such property by sale or other transaction.

(c) REQUIREMENTS FOR CONDUCT OF TRANSACTIONS.—In conducting transactions under this section, the Commission shall—

(1) accept money only in the form of a check or similar instrument made payable to the Treasury of the United States and shall deposit any such check or instrument in accordance with section 803;

(2) in making sales and engaging in other property transactions, take into consideration market conditions and other relevant factors; and

(3) assure that each transaction is directly related to the purposes referred to in section 801(a).

CAPITOL PRESERVATION FUND

40 USC 188a-2.

SEC. 803. (a) IN GENERAL.—There is established in the Treasury a fund, to be known as the "Capitol Preservation Fund" (hereafter in this title referred to as the "fund"), which shall consist of (1) amounts deposited, and interest and proceeds credited, under subsection (d), (2) obligations obtained under subsection (e), and (3) all surcharges received by the Secretary of the Treasury from the sale of coins minted under the Bicentennial of the United States Congress Commemorative Coin Act.

(b) AVAILABILITY OF FUND.—The fund shall be available to the Commission subject to the approval, except for the purchase of fine

art and antiques, of the Committees on Appropriations of the House of Representatives and Senate, respectively—

(1) for payment of transaction costs and similar expenses incurred under section 802;

(2) for improvement and preservation projects for the United States Capitol;

(3) for disbursement with respect to works of fine art and other property as provided in section 802; and

(4) for such other payments as may be required to carry out section 801 or section 802.

102 STAT. 4610

(c) TRANSACTION COSTS AND PROPORTIONALITY.—In carrying out this section, the Commission shall, to the extent practicable, take such action as may be necessary—

(1) to minimize disbursements under subsection (b)(1); and

(2) to equalize disbursements under subsection (b) between the Senate and the House of Representatives.

(d) DEPOSITS, CREDITS, AND DISBURSEMENTS.—The Commission shall deposit in the fund gifts of money and proceeds of transactions under section 802. The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund. Disbursements from the fund shall be made on vouchers approved by the Commission and signed by the co-chairmen.

(e) INVESTMENTS.—The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Commission, is not required to meet current withdrawals. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Commission has a maturity suitable for the fund. In carrying out this subsection, the Secretary may make such purchases, sales, and redemptions of obligations as may be approved by the Commission.

AUDITS BY THE COMPTROLLER GENERAL

SEC. 804. The Comptroller General shall conduct annual audits of the transactions of the Commission and shall report the results of each audit to the Congress.

Reports.
40 USC 188a-3.

ADVISORY BOARDS

SEC. 805. The Commission may establish appropriate boards to provide advice and assistance to the Commission and to further the purposes of the Commission. The boards shall be composed of members (including chairmen) who shall be appointed by the Commission from public and private life and shall serve at the pleasure of the Commission and each co-chairman of the Commission may appoint one member to any such board. The members of boards under this section may be reimbursed for actual and necessary expenses incurred in the performance of the duties of the boards, at the discretion of the Commission.

40 USC 188a-4.

DEFINITION

SEC. 806. As used in this title, the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

40 USC 188a-5.

TITLE IX—SENATE PROVISIONS

PROVISIONS RELATING TO THE SENATE COMMISSION ON ART

SEC. 901. (a) INCORPORATION.—The provisions of Senate Resolution 382 (Ninetieth Congress; agreed to October 1, 1968) (as amended by this section) and Senate Resolution 95 (Ninety-second Congress;

40 USC 188b-188b-42, 40 USC 188b-5.

102 STAT. 4611

agreed to April 1, 1971) (as amended by this section) are hereby incorporated by reference.

(b) TECHNICAL CHANGES.—Senate Resolution 382 (Ninetieth Congress; agreed to October 1, 1968) is amended—

40 USC 188b.

(1) in section 1(b) by adding at the end "The Secretary of the Senate shall be the Executive Secretary of the Commission";

40 USC 188b-1.

(2) in section 2(a)—

(A) by striking out "and protect" and inserting in lieu thereof "protect, and make known"; and

(B) by striking out "within the Senate wing of the Capitol", and inserting in lieu thereof "within the Senate wing of the United States Capitol, any Senate Office Buildings"; and

(3) in section 1(a), by striking out "Commission on Art and Antiquities of the United States Senate" and inserting in lieu thereof "Senate Commission on Art".

40 USC 185b-5.

(c) NAME CHANGE.—Senate Resolution 95 (Ninety-second Congress, agreed to April 1, 1971) is amended by striking out "Commission on Art and Antiquities of the United States Senate" and inserting in lieu thereof "Senate Commission on Art".

40 USC 188b note.

(d) SENATE RULEMAKING POWER.—The provisions of this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate, and as such they shall be considered as part of the rules of the Senate, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

TITLE X—HOUSE OF REPRESENTATIVES PROVISIONS

HOUSE OF REPRESENTATIVES FINE ARTS BOARD

40 USC 188c.

SEC. 1001. (a) ESTABLISHMENT AND AUTHORITY.—There is established in the House of Representatives a Fine Arts Board (hereafter in this title referred to as the "Board"), comprised of the House of Representatives members of the Joint Committee on the Library The chairman of the Committee on House Administration of the House of Representatives shall be the chairman of the Board. The Board, in consultation with the House office building commission, shall have authority over all works of fine art, historical objects, and similar property that are the property of the Congress and are for display or other use in the House of Representatives wing of the Capitol, the House of Representatives Office Buildings, or any other location under the control of the House of Representatives.

(b) CLERK OF THE HOUSE OF REPRESENTATIVES.—Under the supervision and direction of the Board, the Clerk of the House of Representatives shall be responsible for the administration, maintenance, and display of the works of fine art and other property referred to in subsection (a).

(c) ARCHITECT OF THE CAPITOL.—The Architect of the Capitol shall provide assistance to the Board and to the Clerk of the House of Representatives in the carrying out of their responsibilities under this title.

102 STAT. 4612

ACCEPTANCE OF GIFTS ON BEHALF OF THE HOUSE OF REPRESENTATIVES

40 USC 188e-1.

SEC. 1002. The Board is authorized to accept, on behalf of the House of Representatives, gifts of works of fine art, historical objects, and similar property, including transfers from the United States Capitol Preservation Commission under section 802, for display or other use in the House of Representatives wing of the

Capitol, the House of Representatives Office Buildings, or any other location under the control of the House of Representatives.

Approved November 18, 1988.

LEGISLATIVE HISTORY—S. 2840 (S. 252) (S. 2352) (H.R. 4519):

HOUSE REPORTS: No. 100-744, Pt. 1, accompanying H.R. 4519 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Veterans' Affairs).

SENATE REPORTS: No. 100-525 accompanying S. 252 (Comm. on Energy and Natural Resources), No. 100-553 accompanying S. 2352 (Comm. on Energy and Natural Resources), and No. 100-539 accompanying H.R. 4519 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 134 (1988):

July 27, H.R. 4519 considered and passed House.

Oct. 13, S. 2840 considered and passed Senate.

Oct. 20, considered and passed House, amended. Senate concurred in House amendments.

ERRATA TO:

ARIZONA-IDAHO CONSERVATION ACT OF 1988

*On page 102 STAT. 4593, at Section 407, the word "title" that appears in the third line should read "Act". The word in the context of the sentence in which it appears should read: " "Sec. 32. Nothing in this Act prohibits the Commissioner from providing relocation assistance to families certified as eligible, regardless of their current place of residence, with funds appropriated to implement Public Law 93-531."."

On page 102 STAT. 4598, at Section 605, the word "area" that appears in the sixth line of subsection (a) should read "areas". The word in the context of the sentence in which it appears should read: "Prior to the termination, nonrenewal or modification of those Special Use Authorizations for the areas noted above, the Secretary shall, with the assistance of the United States Fish and Wildlife Service, conduct a biological study to determine the effects of such special use authorizations upon the Mount Graham red squirrel and other threatened or endangered species."

On page 102 STAT. 4598, at Section 605, the word "nonrenewal" in the second line of subsection (b) should read "nonrenewals". The word in the context of the sentence in which it appears should read: "(b) Pursuant to title 2300 of the Forest Service Manual, special use terminations, nonrenewals, or modifications shall not take effect until ten years from the last date of the tenure of existing special use authorizations described in subsection (a)."

These corrections were made to bring the slip law into conformity with the original law as signed by the President.

Public Law 100-698
100th Congress

102 STAT. 4618

An Act

To establish in the Department of the Interior the Southwestern Pennsylvania Heritage Preservation Commission, and for other purposes.

Nov. 19, 1988
[H.R. 3313]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

16 USC 461 note.

(a) FINDINGS.—The Congress finds that—

(1) the iron and steelmaking, coal, and transportation industries and the labor of their workers contributed significantly to America's movement westward, allowed for the growth of the Nation's cities, and helped fuel and move its industrial growth and development and establish its standing among nations of the world;

(2) there are only a few recognized historic sites that are devoted to portraying the development and growth of heavy industry and the industrial labor movement in America; and

(3) the 9-county region in southwestern Pennsylvania known as the Allegheny Highlands contain significant examples of iron and steel, coal, and transportation industries, and is a suitable region in which the story of American industrial heritage can be appropriately interpreted to present and future generations.

(b) PURPOSE.—In furtherance of the findings set forth in subsection (a) of this section, it is the purpose of this Act to establish, through a commission representing all concerned levels of government, the means by which the cultural heritage of the 9-county region in southwestern Pennsylvania associated with the three basic industries of iron and steel, coal, and transportation may be recognized, preserved, promoted, interpreted, and made available for the benefit of the public.

16 USC 461 note.

TITLE I—SOUTHWESTERN PENNSYLVANIA HERITAGE PRESERVATION COMMISSION

SEC. 101. ESTABLISHMENT.

(a) IN GENERAL.—To carry out the purpose of this title and to implement, as appropriate, the document which is entitled "Action Plan—America's Industrial Heritage Project" and which is dated August 1987, there is hereby established in the Department of the Interior the Southwestern Pennsylvania Heritage Preservation Commission (hereinafter referred to as the "Commission"). The Commission shall exercise the responsibilities and authorities herein conferred on the Commission with respect to that region in southwestern Pennsylvania comprising the counties of Bedford, Blair, Cambria, Fayette, Fulton, Huntingdon, Indiana, Somerset, and Westmoreland. The Commission shall consist of 21 members, appointed by the Secretary of the Interior (hereinafter referred to as the "Secretary") as follows:

102 STAT. 4619

(1) 2 members appointed from recommendations submitted by the Governor of Pennsylvania of which one shall represent the interests of the Pennsylvania Historical and Museum Commission; and the other shall represent the Pennsylvania Department of Community Affairs;

(2) 9 members appointed from recommendations submitted by the county commissioners of the Pennsylvania counties of Bedford, Blair, Cambria, Fayette, Fulton, Huntingdon, Indiana, Somerset, and Westmoreland, of which one member shall be appointed from the recommendations of each such county from groups and individuals representing historic preservation, tourism promotion, business and industry and industrial and labor history;

(3) 4 members appointed from recommendations from the Southern Alleghenies Planning and Development Commission;

(4) 4 members appointed from recommendations from Laurel Highlands, Inc.;

(5) 2 members appointed by the Secretary from recommendations by the Director of the National Park Service who shall have knowledge and experience in the field of historic preservation; and

(6) the Director of the National Park Service, ex officio, or his delegate.

(b) APPOINTMENT.—All members of the Commission shall be appointed for terms of 3 years, except that the terms of the 9 members appointed from recommendations submitted by each county pursuant to subsection (a)(2) shall be for 2 years.

(c) CHAIRMAN.—The Commission shall elect a chairman from among its members. The term of the chairman shall be 2 years.

(d) TERMS.—Any member of the Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

(e) QUORUM.—A simple majority of Commission members shall constitute a quorum.

(f) MEETINGS.—The Commission shall meet at least quarterly or at the call of the chairman or a majority of its members.

(g) COMPENSATION.—Members of the Commission shall serve without compensation as such. Members shall be entitled to travel expenses under section 5703, title 5, United States Code, when engaged in Commission business, including per diem in lieu of subsistence in the same manner as persons employed intermittently.

SEC. 102. STAFF OF THE COMMISSION.

(a) STAFF.—(1) The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

(2) Staff appointed by the Commission—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

102 STAT. 4620

(B) shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) STAFF OF OTHER AGENCIES.—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties.

(2) The Commission may accept the services of personnel detailed from the Commonwealth of Pennsylvania (and any political subdivision thereof) and may reimburse the commonwealth or political subdivision for those services.

(d) ADMINISTRATIVE SUPPORT.—The Administrator of the General Services Administration shall provide such administrative support services as the Commission may request, on a reimbursable basis.

SEC. 103. POWERS OF THE COMMISSION.

(a) IN GENERAL.—The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable.

(b) BYLAWS.—The Commission may make such bylaws, rules and regulations, consistent with this Act, as it considers necessary to carry out its functions under this title.

(c) DELEGATION.—When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) TECHNICAL ADVISORY GROUPS.—The Commission may establish and appoint one or more technical advisory groups to provide technical advice in financing, historic preservation, recreation, tourism, and intergovernmental coordination.

(e) DONATIONS.—Notwithstanding any other provision of law, the Commission may seek and accept donations of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of carrying out its duties.

(f) FUNDS FROM OTHER SOURCES.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(g) MAIL.—The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(h) OBTAINING PROPERTY.—(1) The Commission may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties except that the Commission may not acquire any real property or interest in real property otherwise than under paragraph (2).

(2) Subject to paragraph (3), the Commission may acquire real property, or interests in real property, in the Corridor—

(A) by gift or device; or

(B) by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interests in real property, in the Corridor.

102 STAT. 4621

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

Loans.
Grants.
Conservation.

SEC. 104. FUNCTIONS OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall—

(1) make loans and grants, from funds appropriated for that purpose or from funds donated or otherwise made available to the Commission, for the purpose of conserving and protecting sites, buildings, and objects which are related to the industrial development of the area and which are included or eligible for inclusion on the National Register of Historic Places;

(2) coordinate activities of Federal, State, and local governments and private businesses and organizations in order to further historic preservation and compatible economic revitalization;

(3) develop guidelines and standards for projects, consistent with standards established by the National Park Service for the preservation of historic properties, including interpretive methods, that will further historic preservation in the region; and

(4) provide advice and assistance in preparation of loan or grant applications to the Commission and applications for loans or grants from other Federal or non-Federal sources in furtherance of the purposes of this title.

Any loan made under this subsection shall be for a term expiring before the date 10 years after the enactment of this Act and shall be subject to such other terms and conditions, including interest, as may be established by the Commission with the approval of the Secretary.

(b) ANNUAL REPORTS.—The Commission shall submit an annual report to the Secretary setting forth its expenses and income and the entities to which any loans and grants were made during the year for which the report is made. The Secretary shall submit an annual report to the Congress describing the loans, grants, and technical assistance provided under this Act. Such report shall specify the amount, recipient, and purpose of any loan, grant, or technical assistance so provided and shall include an analysis of the adequacy of actions taken during the previous year to preserve, protect, and interpret the significant sites, buildings, and objects within the area; as well as the anticipated funds and personnel to be made available by the Secretary during the next fiscal year to implement the provisions of this Act.

(c) COST ESTIMATES.—Prior to making any grant or loan the Commission shall require detailed cost estimates to be prepared for the project to be funded. Within one year from the date of enact-

ment, the Commission shall submit to the appropriate committees of the Congress detailed cost estimates for the projects identified in the action plan referred to in section 101 of this title.

(d) STUDY REPORT.—The Commission, in consultation with the Secretary, the Pittsburgh Area Steel Industry Heritage Task Force, and other interested parties which represent the greater Allegheny and Washington Counties/Mon-Valley area shall within 2 years of enactment of this Act, submit a report concerning the cultural and historical resource values of the greater Allegheny and Washington Counties/Mon-Valley area to the Secretary. Such report shall include an analysis of the methods and means of inventorying, preserving and interpreting the cultural and historical resources of the area, along with recommendations concerning the coordination of activities in the 11 counties represented by the Commission and the Pittsburgh Area Steel Industry Heritage Task Force and other interested parties. The Secretary shall review the report and submit it along with any comments or recommendations that the Secretary may wish to make to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within 180 days after receipt of such report from the Commission.

102 STAT. 4622

(e) EXPIRATION.—The Commission established pursuant to this title shall cease to exist 10 years from the date of enactment of this Act. Any property or funds of the Commission remaining upon the expiration of the Commission shall be transferred by the Commission to the United States, to a State or local government agency, to a private nonprofit organization exempt from income taxes under section 501(c)(3) of the Internal Revenue Code of 1986, or to any combination of the foregoing.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $3,000,000 to the Commission to carry out the purposes of this title. Funds may be made available pursuant to this section only to the extent they are matched by equivalent funds from non-Federal sources.

TITLE II—SOUTHWESTERN PENNSYLVANIA INDUSTRIAL HERITAGE ROUTE

16 USC 1244 note.

SEC. 201. DESIGNATION OF ROUTE.

(a) DESIGNATION.—In order to provide for public appreciation, education, understanding, and enjoyment of certain nationally and regionally significant sites in southwestern Pennsylvania which are accessible by public road, the Secretary of Interior (hereinafter referred to as the "Secretary"), with the concurrence of the agency having jurisdiction over such roads, shall designate, by publication of a description thereof in the Federal Register, a vehicular tour route along existing public roads linking historic, cultural, natural, scenic, and recreational sites in southwestern Pennsylvania. Such route shall be known as the Southwestern Pennsylvania Industrial Heritage Route (hereinafter referred to as the "route"), and shall be marked with an appropriate marker to guide members of the visiting public. With the concurrence of the State or local entity having jurisdiction over such roads so designated, the Secretary may erect thereon signs and other informational devices displaying the Southwestern Pennsylvania Industrial Heritage Route marker. The Secretary is authorized to accept the donation of signs and other informational devices for placement at appropriate locations along the route.

Federal Register, publication.

Gifts and property.

102 STAT. 4623

(b) INITIAL ROUTE.—The route as initially designated shall include public roads linking Allegheny Portage Railroad National Historic Site, Johnstown Flood National Memorial, Historic Saltsburg, Eliza and Mt. Etna Furnaces, the Charles Schwab Estate, Friendship Hill National Historic Site, Fort Necessity National Battlefield, Altoona Railroad Shops, Altoona Railroader's Memorial Museum, Cambria

Iron Works, Johnstown Inclined Plane, Johnstown Flood Museum, Conemaugh Gap, East Broadtop Railroad National Historic Landmark, Gallitzin Tunnels, Horseshoe Curve National Historic Landmark, Fort Ligonier, Bushy Run Battlefield, Seldom Seen Valley Mine, and Somerset Historical Center.

(c) ADDITIONAL SEGMENTS.—The Secretary may, in the manner set forth in section 201 of this title, designate additional segments of the route from time to time as appropriate to link the sites referred to in subsection (b) with other historic, cultural, natural, scenic, and recreational sites when such sites are designated and protected by Federal, State and local governments, Indian tribes, or nonprofit entities.

SEC. 202. TECHNICAL ASSISTANCE.

With respect to sites linked by segments of the route which are administered by other Federal, State, local, tribal, or nonprofit entities, the Secretary may, pursuant to cooperative agreements with such entities, provide technical assistance in the development of interpretive devices and materials in order to contribute to public appreciation of the historic, cultural, natural, scenic, and recreational sites along the route.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $150,000 to the Secretary to carry out the purposes of this title. No funds made available under this title shall be used for the operation, maintenance, or repair of any road or related structure.

Approved November 19, 1988.

LEGISLATIVE HISTORY—H.R. 3313:

HOUSE REPORTS: No. 100-789 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-533 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed House.
Oct. 21, considered and passed Senate, amended. House concurred in Senate amendments.

Public Law 100-699
100th Congress

An Act

Nov. 19, 1988
[H.R. 3680]

To revoke certain public land orders, transfer certain public lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Public Lands and National Forests Adjustments Act of 1988.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Public Lands and National Forests Adjustments Act of 1988".

TITLE I—PHILLIPS COUNTY, MONTANA

SEC. 101. AUTHORIZATION OF EXCHANGE.

Notwithstanding the order of the United States District Court for the District of Columbia dated February 10, 1985, in Civil Action Numbered 85-2238, the Secretary of the Interior (hereafter in this title referred to as "the Secretary") is hereby authorized to revoke

applicable public land orders, to revoke withdrawals, to terminate classifications, and to take such other actions as the Secretary determines necessary in order to consummate, in accordance with applicable law, an exchange of lands with Phillips County, Montana, as described in Bureau of Land Management Land Report Serial Number M-66965, dated May 8, 1986, if the Secretary determines such exchange to be in the public interest.

SEC. 102. CONDITIONS OF EXCHANGE.

(a) MANAGEMENT.—Nothing in this title shall be construed as enlarging or diminishing the extent to which the United States or any other party may be responsible, under applicable laws of the United States or the State of Montana, for proper management of lands involved in the exchange described in section 101 (including control of public access to such lands) or for management, control, removal, or other actions related to any hazardous substances or other materials located on such lands.

(b) HAZARDOUS SUBSTANCES.—Prior to consummating the exchange described in section 101, the Secretary shall advise the county and appropriate officials of the United States and the State of Montana concerning any information, from inspection or otherwise, the Secretary has concerning hazardous substances or other materials (including, but not limited to, industrial solvents or wastes) located on such lands.

TITLE II—VETERAN, WYOMING TOWNSITE

SEC. 201. SURVEY AND PLAT.

As soon as possible after the date of enactment of this Act, the Secretary of the Interior (hereafter in this title referred to as "the Secretary") shall resurvey and prepare a new plat for the townsite of Veteran, Wyoming, to take into account the actual and common use of streets and alleys on such lands for designation as public reservations in accordance with the Act of April 16, 1906 (34 Stat. 116). 102 STAT. 4625

SEC. 202. PATENT AND SALES.

(a) PATENT.—

(1) After completion of the work required to complete the survey and plat required under section 201, the Secretary shall patent the title of the United States in and to the public reservation lands referred to in subsection (a) to Goshen County, Wyoming.

(2) Title of the United States in and to a 90 feet by 75 feet lot of approximately 0.15 acres which is described in the records of the Goshen County, Wyoming, clerk's office as "a tract in southwest corner of town of Veteran, Block 40 in the original town of Veteran," shall be patented to Goshen County United School District Number One.

(b) DISPOSAL, ETC.—The Secretary, acting through the Commissioner of Reclamation, is authorized to dispose of Federal lands within the townsite area for fair market value, by negotiated or public sale, and to revoke withdrawals, terminate classifications, and take other steps necessary to implement this title, notwithstanding the order of the United States District Court for the District of Columbia dated February 10, 1985, in Civil Action Numbered 85-2238.

TITLE III—MATTERS INVOLVING LANDS IN THE STATE OF UTAH

SEC. 301. FARMINGTON CITY EXCHANGE.

(a) EXCHANGE.—

(1) Subject to valid existing rights, if Farmington City, Utah (hereafter in this section referred to as the "city"), transfers to

the United States all right, title, and interest of the city in and to the land described in paragraph (2)(A), the Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall transfer to the city all right, title, and interest of the United States in and to the land described in paragraph (2)(B). Any land acquired by the United States under this section shall be added to and managed as part of the Wasatch National Forest.

(2)(A) The land referred to in paragraph (1) to be transferred by the city is that land depicted as parcels Ai, Aii, and Aiii on the map entitled "Farmington Exchange" and dated May 1988, on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(B) The land referred to in paragraph (1) to be transferred by the United States is that land depicted as parcel Bi on the map referred to in subparagraph (A).

(3) Before transferring land to the city pursuant to this subsection, the Secretary shall appraise the values of the lands described in subparagraphs (A) and (B) of paragraph (2). If, based on such appraisal, the fair market value of the lands being transferred to the city is not equal to the fair market value of the lands to be transferred to the United States, the Secretary shall require the city to pay, or shall pay to the city, an amount sufficient to equalize such values.

102 STAT. 4626

(b) CITY OR STATE LANDS WHICH MAY BE EXCHANGED.—

(1)(A) Within the 3-year period beginning on the date of enactment of this Act, the Secretary, in conjunction with the city and the State of Utah (hereafter in this section referred to as the "State"), shall identify city or State lands which are suitable for transfer to the United States for national forest purposes in exchange for the Federal lands depicted as parcels Bii, Biii, Biv, Bv, and Bvi on the map referred to in subsection (a)(2)(A).

(B) Subject to valid existing rights, if within such period the city or the State (as the case may be) transfers to the United States the city or State lands identified pursuant to subparagraph (A), the Secretary shall transfer the appropriate Federal lands depicted as parcels Bii, Biii, Biv, Bv, and Bvi on the map referred to in subsection (a)(2)(A) to the city or the State, as appropriate. The values of lands exchanged under this section shall be of equal value as determined by the Secretary, or, if they are not of equal value, the values shall be equalized by payment to or by the Secretary so long as the payment does not exceed 25 percent of the total value of the lands transferred out of Federal ownership.

(2) In lieu of an exchange under paragraph (1), the Secretary may transfer by sale for fair market value the Federal lands depicted as parcels Bii, Biii, Biv, Bv, and Bvi on the map referred to in subsection (a)(2)(A) to the city or the State of Utah, as appropriate.

SEC. 302. KANAB CITY TRANSFER.

Minerals and mining.
Energy.

(a) WITHDRAWAL.—Subject to valid existing rights, all public lands located within the city limits of Kanab City, Utah (as such limits stood on April 1, 1988) are hereby withdrawn from all forms of entry and appropriation under the public land laws, including the mining laws, and from operation of the mineral leasing and geothermal leasing laws. The withdrawal under this subsection shall terminate on the date which is five years after the date of enactment of this Act.

(b) RIGHT OF KANAB CITY TO PURCHASE CERTAIN WITHDRAWN LANDS.—As soon as possible after the date of enactment of this Act, the Secretary of the Interior (hereafter in this section referred to as the "Secretary") shall determine which public lands withdrawn by

subsection (a) meet the disposal criteria specified in section 203(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713(a)) and shall notify the city of Kanab City concerning such determination. For the four-year period beginning on the date of enactment of this Act, the city of Kanab City, Utah, shall have the exclusive right to purchase any public lands withdrawn by subsection (a) that the Secretary has determined to be suitable for disposal.

(c) PUBLIC SALE.—After the expiration of the period of exclusive right specified in subsection (b), the Secretary may offer any lands covered by such exclusive right for sale under appropriate provisions of the Federal Land Policy and Management Act of 1976, but the city of Kanab City, Utah, shall be given the opportunity to meet the high bid offered by any other party and if such city matches such high bid, the city shall be declared the highest bidder and allowed to purchase the property offered for sale.

(d) TERMS AND CONDITIONS.—All sales of public lands under this section shall be for fair market value and subject to valid existing rights, and the Secretary may attach such conditions to any sale under this section, and any patent issued in consequence of such sale, as the Secretary determines necessary or appropriate.

Patents and trademarks.

SEC. 303. RIVERDALE.

(a) AUTHORIZATION FOR SALE.—If not later than one year after the date of enactment of this Act the city of Riverdale, Utah, submits to the Secretary of the Interior a request to release and quitclaim to the city all right, title, and interest of the United States in and to the property described in subsection (b), the Secretary is authorized to release and quitclaim such right, title, and interest, in accordance with this section.

(b) PROPERTY DESCRIPTION.—The property referred to in subsection (a) is that certain parcel of land, comprising approximately 13.6 acres transferred to the city of Riverdale, Utah, by the United States by a deed dated April 30, 1975, as generally depicted on the map entitled "Riverdale City Parcel" dated May 1988.

(c) CONSIDERATION.—A release and quitclaim under this section shall be in consideration for payment by the city of Riverdale, Utah, to the United States of the fair market value of the right, title, and interest of the United States in the property described in subsection (b) and shall have the effect of releasing any restrictions imposed on the use of such property by the deed referenced in such subsection. Such fair market value shall not include the value of improvements on such property.

(d) DISPOSITION OF FUNDS.—All funds received by the United States from the city of Riverdale, Utah, in consideration for a release and quitclaim under this section shall be covered into the land and water conservation fund in the Treasury of the United States and shall be available for expenditure in accordance with the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.).

SEC. 304. BRIGHAM CITY: REMOVAL OF RESTRICTIONS.

Real property.

(a) 1959 CONVEYANCE.—

(1) The Secretary of the Interior shall execute such instruments as may be necessary to remove the restrictions on the property described in paragraph (2) that the property be used for public school purposes and that the property be available to Indians and non-Indians on the same terms, unless otherwise approved by the Secretary of the Interior.

Schools and colleges. Indians.

(2) The property referred to in paragraph (1) is approximately 9.39 acres of property conveyed by the United States by quitclaim deed on February 12, 1959, to the Board of Education for the Box Elder County School District, Box Elder County, Utah, recorded March 5, 1959, in Box Elder County Deed Book numbered 123 at page 450.

(b) 1977 CONVEYANCE.—

(1) The Secretary of the Interior shall execute such instruments as may be necessary to remove the restrictions of the property described in paragraph (2) that—

"(d) There are authorized to be appropriated $1,800,000 for each of the fiscal years 1990, 1991, and 1992 for the purpose of funding the scholarship assistance provided under subsection (a).".

COMMUNITY HEALTH REPRESENTATIVES

SEC. 107. Title I is amended by adding at the end thereof the following new section:

"COMMUNITY HEALTH REPRESENTATIVE PROGRAM

25 USC 1616.

"SEC. 107. (a) Under the authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary shall maintain a Community Health Representative Program under which the Service—

"(1) provides for the training of Indians as health paraprofessionals, and

"(2) uses such paraprofessionals in the provision of health care, health promotion, and disease prevention services to Indian communities.

"(b) The Secretary, acting through the Community Health Representative Program of the Service, shall—

"(1) provide a high standard of training for paraprofessionals to Community Health Representatives to ensure that the Community Health Representatives provide quality health care, health promotion, and disease prevention services to the Indian communities served by such Program,

"(2) in order to provide such training, develop a curriculum that—

"(A) combines education in the theory of health care with supervised practical experience in the provision of health care, and

"(B) provides instruction and practical experience in health promotion and disease prevention activities,

"(3) develop a system which identifies the needs of Community Health Representatives for continuing education in health care, health promotion, and disease prevention and develop programs that meet the needs for such continuing education,

"(4) develop and maintain a system that provides close supervision of Community Health Representatives,

"(5) develop a system under which the work of Community Health Representatives is reviewed and evaluated, and

"(6) promote traditional health care practices of the Indian tribes served consistent with the Service standards for the provision of health care, health promotion, and disease prevention.".

102 STAT. 4789

INDIAN HEALTH SERVICE CLINICAL STAFFING

SEC. 108. Title I, as amended by section 107 of this Act, is further amended by adding at the end thereof the following new sections:

"INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM

25 USC 1616a.

"SEC. 108. (a)(1) The Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (hereinafter referred to as the 'Loan Repayment Program') in order to assure an adequate supply of trained physicians, dentists, nurses, nurse practitioners, physician assistants, clinical and counseling psychologists, graduates of schools of public health, graduates of schools of social work, and other health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs.

"(2) For the purposes of this section—

"(A) the term 'Indian health program' means any health program or facility funded, in whole or part, by the Service for the benefit of Indians and administered—

(A) the property not be sold, leased, assigned, or otherwise disposed of except to another eligible governmental agency that the Secretary of the Interior agrees in writing can assure the continued use and maintenance of the property for public park or public recreational purposes subject to the same terms and conditions in the original instrument of conveyance; but

102 STAT. 4628

Contracts.

(B) nothing in subparagraph (A) shall preclude the grantee from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the Secretary of the Interior.

(2) The property referred to in paragraph (1) is approximately 16.619 acres of property conveyed by deed without warranty dated May 11, 1977, from the United States of America to the city of Brigham City and recorded on May 23, 1977, in county records of Box Elder County, State of Utah, book numbered 292, pages 503 through 507.

(c) 1983 CONVEYANCE.—

(1) The Secretary of the Interior shall execute such instruments as may be necessary to remove the restriction on the property described in paragraph (2) that—

(A) the property not be sold, leased, assigned, or otherwise disposed of except to another eligible governmental agency that the Secretary of the Interior agrees in writing can assure the continued use and maintenance of the property for public park or public recreational purposes subject to the same terms and conditions in the original instrument of conveyance; but

Contracts.

(B) nothing in subparagraph (A) shall preclude the grantee from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the Secretary of the Interior.

(2) The property referred to in paragraph (1) is approximately 81.2 acres of property conveyed by the United States by deed without warranty on March 29, 1983, recorded April 11, 1983, in Box Elder County, Utah, Deed Book numbered 369 at page 578.

TITLE IV—OREGON TRAIL

Conservation. Historic preservation.

SEC. 401. END OF THE OREGON TRAIL STUDY.

(a) STUDY.—In furtherance of the interpretation and commemoration of the Oregon National Historic Trail, the Secretary of the Interior (hereafter in this title referred to as the "Secretary") is authorized and directed to conduct a study to determine the feasibility and desirability of protecting and preserving those lands and resources associated with the western terminus of the Oregon Trail in Oregon City, Oregon.

(b) CONSULTATION AND COORDINATION.—As part of such study, the Secretary shall consult with other interested Federal agencies and State and local bodies, and the study shall be coordinated with applicable outdoor recreation plans and related plans for the preservation of historic and natural resources in the area.

(c) REPORT.—Within one year after the date of enactment of this section, the Secretary shall make a report of the Secretary's findings and recommendations to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The report of the Secretary shall include, but not be limited to, findings with respect to the historical and natural values of the lands and resources involved, and recommendations as to the historic preservation and markings of the area.

102 STAT. 4629

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

TITLE V—CLARK COUNTY, NEVADA

Real property.

SEC. 501. CATHOLIC DIOCESE OF RENO/LAS VEGAS, NEVADA.

(a) FINDINGS.—The Congress finds the following:

(1) In 1949 Marie D. Lawton purchased from Clark County in a tax sale 40 acres of land in Clark County, Nevada.

(2) She paid taxes on this property until her death in 1975, at which time the property was bequeathed to the Roman Catholic Diocese of Reno/Las Vegas to be used to benefit the Home of the Good Shepherd, which works with troubled young women in the western States.

(3) Since 1975 the Diocese has paid taxes on the property.

(4) It has recently been discovered that Clark County erred in selling the property in 1949 since the land at that time was actually in the public domain.

(b) PURPOSE.—The purpose of this section is to convey this property to the Diocese of Reno/Las Vegas so it may be sold to benefit the Home of the Good Shepherd.

(c) CONVEYANCE.—Subject to valid existing rights and notwithstanding any other provision of law, the Secretary of the Interior shall convey without consideration to the Catholic Diocese of Reno/Las Vegas, Nevada, the lands described as follows: one 40-acre parcel comprising the northwest one-quarter of southwest one-quarter of section 13 township 19 south range 61 east Mount Diablo base line and meridian, subject to the limitations of subsection (d) of this section. The administrative costs of such conveyance shall be borne by the Catholic Diocese of Reno/Las Vegas, Nevada.

(d) RESERVATION OF RIGHT-OF-WAY.—A right-of-way and construction easement shall be reserved to the United States to accommodate flood control facilities of the Clark County Regional Flood Control District. Said right-of-way shall be no more than 75 feet in width and 1,320 feet in length, and shall be located in accordance with the Clark County Flood Control District Master Plan.

TITLE VI—COAL MINING HERITAGE

Conservation.
Historic preservation.

SEC. 601. COAL MINING HERITAGE STUDY.

(a) STUDY.—The Secretary of the Interior, acting through the Director of the National Park Service, is authorized and directed to conduct a study to determine the feasibility of protecting and preserving certain significant cultural, historic, and natural resources associated with the coal mining heritage of southern West Virginia. The study shall include, but not be limited to, the identification of—

(1) Specific sites and points of interest associated with the coal mining heritage of West Virginia, the Appalachian Region and the Nation.

102 STAT. 4630

(2) The historic and cultural values of such sites and points of interest.

(3) The relationship between such sites and points of interest with the natural, scenic, recreational, cultural and historic resources in the region managed by State or Federal agencies, including State and national park system units, recreational lakes, State forest system units, and historic landmarks.

(4) A vehicular tour route along existing public roads linking such sites, points of interest and such other resources managed by State or Federal agencies.

(b) CONSULTATION AND COORDINATION.—As part of such study, the Secretary shall consult with other interested Federal agencies, State and local government authorities, and nonprofit organizations.

West Virginia.

(c) AREA TO BE STUDIED.—The study shall focus on the eleven county areas consisting of Cabell, Wayne, Mingo, Logan, McDowell, Wyoming, Raleigh, Mercer, Boone, Fayette and Summers Counties, West Virginia.

(d) REPORT.—Within one year after the date of enactment of this Act, the Secretary shall make a report of his findings to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

Approved November 19, 1988.

LEGISLATIVE HISTORY—H.R. 3680:

HOUSE REPORTS: No. 100-717, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 13, considered and passed House.
Oct. 21, considered and passed Senate.

102 STAT. 4784 Public Law 100-713
100th Congress

An Act

Nov. 23, 1988
[H.R. 5261]

To reauthorize and amend the Indian Health Care Improvement Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Indian Health Care Amendments of 1988.
Appropriation authorizations.
25 USC 1601 note.

SECTION 1. This Act may be cited as the "Indian Health Care Amendments of 1988".

TABLE OF CONTENTS

SEC. 2. Table of contents.

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.
Sec. 4. Appropriation; availability.

TITLE I—INDIAN HEALTH MANPOWER

Sec. 101. Health professions recruitment program for Indians.
Sec. 102. Health professions preparatory scholarship program.
Sec. 103. Indian Health Service extern programs.
Sec. 104. Indian health professions scholarship program.
Sec. 105. Continuing education allowances.
Sec. 106. Native Hawaiian health professions scholarship program.
Sec. 107. Community health representatives.
Sec. 108. Indian health service clinical staffing.
Sec. 109. Other recruitment and retention provisions.
Sec. 110. Report on recruitment and retention.

TITLE II—HEALTH SERVICES

Sec. 201. Improvement of Indian health status.
Sec. 202. Catastrophic health program.
Sec. 203. Health promotion and disease prevention.
Sec. 204. Reimbursement of certain expenses; research.

TITLE III—HEALTH FACILITIES

Sec. 301. Consultation; closure of facilities; reports.
Sec. 302. Safe water and sanitary waste disposal facilities.
Sec. 303. Use of non-Service funds for renovation.
Sec. 304. Bethel, Alaska, hospital.

TITLE IV—ACCESS TO HEALTH SERVICES

Sec. 401. Medicare provisions.
Sec. 402. Demonstration program.

TITLE V—URBAN INDIAN HEALTH SERVICES

Sec. 501. Revision of program.
Sec. 502. Urban Indian organization.

TITLE VI—ORGANIZATIONAL IMPROVEMENTS

Sec. 601. Establishment of the Indian Health Service as an agency of the Public Health Service.

102 STAT. 4785

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Leasing and other contracts.
Sec. 702. Arizona as a contract health service delivery area.
Sec. 703. Eligibility of California Indians.
Sec. 704. California as a contract health service delivery area.
Sec. 705. Contract health facilities.
Sec. 706. National Health Service Corps.
Sec. 707. Health services for ineligible persons.
Sec. 708. Infant and maternal mortality; fetal alcohol syndrome.
Sec. 709. Contract health services for the Trenton Service Area.
Sec. 710. Indian health service and Veterans' Administration health facilities and services sharing.
Sec. 711. Reallocation of base resources.
Sec. 712. Provision of services in Montana.
Sec. 713. Demonstration projects for tribal management of health care services.
Sec. 714. Health care for rural areas.
Sec. 715. Child sexual abuse treatment program.
Sec. 716. Pueblo substance abuse treatment project for San Juan Pueblo, New Mexico.
Sec. 717. Study with respect to nuclear resource development health hazards.
Sec. 718. Limitation on use of funds appropriated to the Indian Health Service.
Sec. 719. Eligibility for services.

TITLE VIII—SEVERABILITY PROVISION

Sec. 801. Severability.

REFERENCES

SEC. 3. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Health Care Improvement Act (25 U.S.C. 1601, et seqq.).

APPROPRIATION; AVAILABILITY

SEC. 4. Any new spending authority (described in subsection (c)(2)(A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

25 USC 1601 note.

TITLE I—INDIAN HEALTH MANPOWER

HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS

SEC. 101. Subsection (c) of section 102 (25 U.S.C. 1612 (c)) is amended to read as follows:

"(c) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $600,000 for fiscal year 1989,
"(2) $650,000 for fiscal year 1990,
"(3) $700,000 for fiscal year 1991, and
"(4) $750,000 for fiscal year 1992.".

HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM

SEC. 102. (a) Section 103 (25 U.S.C. 1613) is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely on the basis of the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution.

102 STAT. 4786

"(e) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $3,000,000 for fiscal year 1989,

"(2) $3,700,000 for fiscal year 1990,

"(3) $4,400,000 for fiscal year 1991, and

"(4) $5,100,000 for fiscal year 1992.".

25 USC 1613.

(b) Subsection (c) of section 103 is amended by striking out "expenses" and inserting in lieu thereof "expenses of a grantee while attending school full time".

INDIAN HEALTH SERVICE EXTERN PROGRAMS

SEC. 103. Subsection (d) of section 105 (25 U.S.C. 1614) is amended to read as follows:

"(d) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $300,000 for fiscal year 1989,

"(2) $350,000 for fiscal year 1990,

"(3) $400,000 for fiscal year 1991, and

"(4) $450,000 for fiscal year 1992.".

INDIAN HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

25 USC 1613a.

SEC. 104. (a) Section 104 is amended to read as follows:

"INDIAN HEALTH PROFESSIONS SCHOLARSHIPS

"SEC. 104. (a) In order to provide health professionals to Indian communities, the Secretary, acting through the Service and in accordance with this section, shall make scholarship grants to Indians who are enrolled full time in appropriately accredited schools of medicine, osteopathy, podiatry, psychology, dentistry, environmental health and engineering, nursing, optometry, public health, allied health professions, and social work. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with section 338A of the Public Health Service Act (42 U.S.C. 254l), except as provided in subsection (b) of this section.

"(b)(1) The Secretary, acting through the Service, shall determine who shall receive scholarships under subsection (a) and shall determine the distribution of such scholarships among such health professions on the basis of the relative needs of Indians for additional service in such health professions.

"(2) An individual shall be eligible for a scholarship under subsection (a) in any year in which such individual is enrolled full time in a health profession school referred to in subsection (a).

"(3) The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by a recipient of an Indian Health Scholarship by service—

"(A) in the Indian Health Service;

"(B) in a program conducted under a contract entered into under the Indian Self-Determination Act;

"(C) in a program assisted under title V of this Act; or

"(D) in the private practice of the applicable profession if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

"(c) For purposes of this section, the term 'Indian' has the same meaning given that term by subsection (c) of section 4 of this Act, including all individuals described in clauses (1) through (4) of that subsection. 102 STAT. 4787

"(d) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $5,100,000 for fiscal year 1989,

"(2) $6,000,000 for fiscal year 1990,

"(3) $7,100,000 for fiscal year 1991, and

"(4) $8,234,000 for fiscal year 1992.".

(b)(1) Section 338I of the Public Health Service Act (42 U.S.C. 254r) is repealed.

(2) Scholarships that have been provided under section 338I of the Public Health Service Act (42 U.S.C. 254r) on or before the date of enactment of this Act— 42 USC 254r note.

(A) shall continue to be provided under the provisions of such section that were in effect on the day before the date of enactment of this Act,

(B) shall be subject to the same terms and conditions to which such scholarships were subject on the day before the date of enactment of this Act, and

(C) shall be funded from funds appropriated to carry out section 104 of the Indian Health Care Improvement Act, as amended by this Act.

CONTINUING EDUCATION ALLOWANCES

SEC. 105. Subsection (b) of section 106 (25 U.S.C. 1615(b)) is amended to read as follows:

"(b) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $500,000 for fiscal year 1989,

"(2) $526,300 for fiscal year 1990,

"(3) $553,800 for fiscal year 1991, and

"(4) $582,500 for fiscal year 1992.".

NATIVE HAWAIIAN HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

SEC. 106. Subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 254b, et seq.) is amended by adding at the end thereof the following new section:

"SEC. 338J. NATIVE HAWAIIAN HEALTH SCHOLARSHIPS. 42 USC 254s.

"(a) Subject to the availability of funds appropriated under the authority of subsection (d), the Secretary shall provide scholarship assistance, pursuant to a contract with the Kamehameha Schools/Bishop Estate, to students who—

"(1) meet the requirements of section 338A(b), and

"(2) are Native Hawaiians.

"(b)(1) The scholarship assistance provided under subsection (a) shall be provided under the same terms and subject to the same conditions, regulations, and rules that apply to scholarship assistance provided under section 338A.

"(2) The Native Hawaiian Health Scholarship program shall not be administered by or through the Indian Health Service.

"(c) For purposes of this section, the term 'Native Hawaiian' means any individual who is—

"(1) a citizen of the United States, 102 STAT. 4788

"(2) a resident of the State of Hawaii, and

"(3) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by—

"(A) genealogical records,

"(B) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

"(C) birth records of the State of Hawaii.

"(i) directly by the Service;

"(ii) by any Indian tribe or tribal or Indian organization pursuant to a contract under—

"(I) the Indian Self-Determination Act, or

"(II) section 23 of the Act of April 30, 1908 (25 U.S.C. 47), popularly known as the 'Buy-Indian' Act; or

"(iii) by an urban Indian organization pursuant to title V of this Act; and

"(B) the term 'State' has the same meaning given such term in section 331(i)(4) of the Public Health Service Act.

"(b) To be eligible to participate in the Loan Repayment Program, an individual must—

"(1)(A) be enrolled—

"(i) as a full-time student in the final year of a course of study or program in an accredited institution, as determined by the Secretary, within any State; or

"(ii) in an approved graduate training program in medicine, osteopathy, dentistry, or other health profession; or

"(B) have—

"(i) a degree in medicine, osteopathy, dentistry, or other health profession;

"(ii) completed an approved graduate training program in medicine, osteopathy, dentistry, or other health profession in a State, except that the Secretary may waive the completion requirement of this clause for good cause; and

"(iii) a license to practice medicine, osteopathy, dentistry, or other health profession in a State;

"(2)(A) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service;

"(B) be eligible for selection for civilian service in the Regular or Reserve Corps of the Public Health Service;

"(C) meet the professional standards for civil service employment in the Indian Health Service; or

"(D) be employed in an Indian health program without a service obligation;

102 STAT. 4790

"(3) submit an application to participate in the Loan Repayment Program; and

"(4) sign and submit to the Secretary, at the time of submission of such application, a written contract (described in subsection (f)) to accept repayment of educational loans and to serve (in accordance with this section) for the applicable period of obligated service in an Indian health program.

Contracts

"(c)(1) In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under subsection (l) in the case of the individual's breach of the contract. The Secretary shall provide such individuals with sufficient information regarding the advantages and disadvantages of service as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or a civilian employee of the Indian Health Service to enable the individual to make a decision on an informed basis.

Contracts

"(2) The application form, contract form, and all other information furnished by the Secretary under this section shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

"(3) The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

"(2) If, for any reason not specified in paragraph (1), an individual breaches his written contract under this section by failing either to begin, or complete, such individual's period of obligated service in accordance with subsection (f), the United States shall be entitled to recover from such individual an amount to be determined in accordance with the following formula:

$$A = 3Z(t-s/t)$$

102 STAT. 4793

in which—

"(A) 'A' is the amount the United States is entitled to recover;

"(B) 'Z' is the sum of the amounts paid under this section to, or on behalf of, the individual and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States;

"(C) 't' is the total number of months in the individual's period of obligated service in accordance with subsection (f); and

"(D) 's' is the number of months of such period served by such individual in accordance with this section.

Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1892 of the Social Security Act.

"(3)(A) Any amount of damages which the United States is entitled to recover under this subsection shall be paid to the United States within the 1-year period beginning on the date of the breach or such longer period beginning on such date as shall be specified by the Secretary.

"(B) If damages described in subparagraph (A) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

"(i) utilize collection agencies contracted with by the Administrator of the General Services Administration; or

Contracts.

"(ii) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

Reports.

"(C) Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent not inconsistent with this subsection.

"(m)(1) Any obligation of an individual under the Loan Repayment Program for service or payment of damages shall be canceled upon the death of the individual.

Regulations.

"(2) The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the Loan Repayment Program whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

"(3) The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

"(4) Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

Reports.

"(n)(1) By not later than the first of March of each year, the Secretary shall, beginning with fiscal year 1990, submit to the Congress an annual report for the preceding fiscal year setting out—

"(d)(1) The Secretary, acting through the Service and in accordance with subsection (k), shall annually—

"(A) identify the positions in each Indian Health program for which there is a need or a vacancy, and

"(B) rank those positions in order of priority.

"(2) Consistent with the priority determined under paragraph (1), the Secretary, in determining which applications under the Loan Repayment Program to approve (and which contracts to accept), shall give priority to applications made by—

"(A) Indians; and

"(B) individuals recruited through the efforts of Indian tribes or tribal or Indian organizations.

Contracts.

"(e)(1) An individual becomes a participant in the Loan Repayment Program only on the Secretary's approval of the individual's application submitted under subsection (b)(3) and the Secretary's acceptance of the contract submitted by the individual under subsection (b)(4).

"(2) The Secretary shall provide written notice to an individual promptly on—

"(A) the Secretary's approving, under paragraph (1), of the individual's participation in the Loan Repayment Program; or

"(B) the Secretary's disapproving an individual's participation in such Program.

Contracts.

"(f) The written contract referred to in this section between the Secretary and an individual shall contain—

"(1) an agreement under which—

102 STAT. 4791

"(A) subject to paragraph (3), the Secretary agrees—

"(i) to pay loans on behalf of the individual in accordance with the provisions of this section, and

"(ii) to accept (subject to the availability of appropriated funds for carrying out this section) the individual into the Service or place the individual with a tribe or Indian organization as provided in subparagraph (B)(iii), and

"(B) subject to paragraph (3), the individual agrees—

"(i) to accept loan payments on behalf of the individual;

"(ii) in the case of an individual described in subsection (b)(1)—

"(I) to maintain enrollment in a course of study or training described in subsection (b)(1)(A) until the individual completes the course of study or training, and

"(II) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training);

"(iii) to serve for a time period (hereinafter in this section referred to as the 'period of obligated service') equal to 2 years or such longer period as the individual may agree to serve in the full-time clinical practice of such individual's profession in an Indian health program to which the individual may be assigned by the Secretary;

"(2) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under paragraph (1)(B)(iii);

"(3) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments under this section;

"(4) a statement of the damages to which the United States is entitled under subsection (l) for the individual's breach of the contract; and

"(5) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

"(g)(1) A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual for—

"(A) tuition expenses;

"(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and

"(C) reasonable living expenses as determined by the Secretary.

"(2)(A) Except as provided in subparagraph (B) and paragraph (3), for each year of obligated service for which an individual contracts to serve under subsection (f), the Secretary may pay up to $25,000 on behalf of the individual for loans described in paragraph (1)

102 STAT. 4792

"(B) Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made no later than the end of the fiscal year in which the individual completes such year of service.

Taxes.

"(3) In addition to payments made under paragraph (2), in any case in which payments on behalf of an individual under the Loan Repayment Program result in an increase in Federal, State, or local income tax liability for such individual, the Secretary may, on the request of such individual, make payments to such individual in a reasonable amount, as determined by the Secretary, to reimburse such individual for all or part of the increased tax liability of the individual.

"(4) The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

Employment and unemployment.

"(h) Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department of Health and Human Services.

"(i) The Secretary shall conduct recruiting programs for the Loan Repayment Program and other Service manpower programs at educational institutions training health professionals or specialists identified in subsection (a).

"(j) Section 214 of the Public Health Service Act (42 U.S.C. 215) shall not apply to individuals during their period of obligated service under the Loan Repayment Program.

Discrimination, prohibition.

"(k) The Secretary shall ensure that the staffing needs of Indian health programs administered by any Indian tribe or tribal or Indian organization receive consideration on an equal basis with programs that are administered directly by the Service.

Contracts.

"(l)(1) An individual who has entered into a written contract with the Secretary under this section and who—

"(A) is enrolled in the final year of a course of study and who—

"(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary);

"(ii) voluntarily terminates such enrollment; or

"(iii) is dismissed from such educational institution before completion of such course of study; or

"(B) is enrolled in a graduate training program, fails to complete such training program, and does not receive a waiver from the Secretary under subsection (b)(1)(B)(ii),

shall be liable, in lieu of any service obligation arising under such contract, to the United States for the amount which has been paid on such individual's behalf under the contract.

"(A) the number of such applications filed with respect to each type of health profession; 102 STAT. 4794

"(B) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

"(C) the number of contracts described in subsection (f) that are entered into with respect to each health profession; and

"(D) the amount of loan payments made in total and by health profession.

"(2) Not later than the first of July of each year, beginning in 1989, the Secretary shall submit to Congress a report on—

"(A) the number of providers of health care that will be needed by Indian health programs by location and profession, during the three fiscal years beginning after the date the report is filed; and

"(B) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes or tribal or Indian organizations for which recruitment or retention is difficult.

"(o) There are authorized to be appropriated such sums as may be necessary for each fiscal year to carry out the provisions of this section.

"TRAVEL EXPENSES FOR RECRUITMENT

"SEC. 109. (a) The Secretary may reimburse health professionals seeking positions in the Service, including individuals considering entering into a contract under section 108, and their spouses, for actual and reasonable expenses incurred in traveling to and from their places of residence to an area in which they may be assigned for the purpose of evaluating such area with respect to such assignment. 25 USC 1616b.

"(b) There are authorized to be appropriated $100,000 for each of the fiscal years 1990, 1991, and 1992, for the purpose of carrying out the provisions of this section.

"TRIBAL RECRUITMENT AND RETENTION PROGRAM

"SEC. 110. (a) The Secretary, acting through the Service, shall fund, on a competitive basis, projects to enable Indian tribes and tribal and Indian organizations to recruit, place, and retain health professionals to meet the staffing needs of Indian health programs (as defined in section 108(a)(2)). 25 USC 1616c.

"(b)(1) Any Indian tribe or tribal or Indian organization may submit an application for funding of a project pursuant to this section.

"(2) Indian tribes and tribal and Indian organizations under the authority of the Indian Self-Determination Act shall be given an equal opportunity with programs that are administered directly by the Service to compete for, and receive, grants under subsection (a) for such projects. Discrimination, prohibition.

"(c) There are authorized to be appropriated $1,000,000 for each of the fiscal years 1990, 1991, and 1992, for the purpose of carrying out the provisions of this section.

102 STAT. 4795

"ADVANCED TRAINING AND RESEARCH

"SEC. 111. (a) The Secretary, acting through the Service, shall establish a program to enable health professionals who have worked in an Indian health program (as defined in section 108(a)(2)) for a substantial period of time to pursue advanced training or research in areas of study for which the Secretary determines a need exists. 25 USC 1616d.

"(b) An individual who participates in a program under subsection (a), where the educational costs are borne by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least the period of time during which

the individual participates in such program. In the event that the individual fails to complete such obligated service, the individual shall be liable to the United States for the period of service remaining. The Secretary shall develop standards for appropriate recoupment for such remaining service.

"(c) Health professionals from Indian tribes and tribal and Indian organizations under the authority of the Indian Self-Determination Act shall be given an equal opportunity to participate in the program under subsection (a).

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.

"NURSING PROGRAM

Grants.
25 USC 1616e.

"SEC. 112. (a) The Secretary, acting through the Service, shall provide grants to—

"(1) public or private schools of nursing,

"(2) tribally controlled community colleges, and

"(3) nurse midwife programs, and nurse practitioner programs, that are provided by any public or private institution, for the purpose of increasing the number of nurses, nurse midwives, and nurse practitioners who deliver health care services to Indians.

"(b) Grants provided under subsection (a) may be used to—

"(1) recruit individuals for programs which train individuals to be nurses, nurse midwives, or nurse practitioners,

"(2) provide scholarships to individuals enrolled in such programs that may pay the tuition charged for such program and other expenses incurred in connection with such program, including books, fees, room and board, and stipends for living expenses,

"(3) provide a program that encourages nurses, nurse midwives, and nurse practitioners to provide, or continue to provide, health care services to Indians,

"(4) provide a program that increases the skills of, and provides continuing education to, nurses, nurse midwives, and nurse practitioners, or

"(5) provide any program that is designed to achieve the purpose described in subsection (a).

"(c) Each application for a grant under subsection (a) shall include such information as the Secretary may require to establish the connection between the program of the applicant and a health care facility that primarily serves Indians.

"(d) In providing grants under subsection (a), the Secretary shall extend a preference to—

102 STAT. 4796

"(1) programs that provide a preference to Indians,

"(2) programs that train nurse midwives or nurse practitioners,

"(3) programs that are interdisciplinary, and

"(4) programs that are conducted in cooperation with a center for gifted and talented Indian students established under section 5324(a) of the Indian Education Act of 1988.

"(e) The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each individual who receives training or assistance described in paragraph (1) or (2) of subsection (b) that is funded by a grant provided under subsection (a). Such obligation shall be met by service—

"(A) in the Indian Health Service;

"(B) in a program conducted under a contract entered into under the Indian Self-Determination Act;

"(C) in a program assisted under title V of this Act; or

"(D) in the private practice of nursing if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

"(f)(1) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, $5,000,000 for the purpose of carrying out the provisions of this section.

"(2) Of the amounts appropriated under the authority of paragraph (1) for each fiscal year, the Secretary shall use at least $1,000,000 to provide grants under subsection (a) for the training of nurse midwives.".

OTHER RECRUITMENT AND RETENTION PROVISIONS

SEC. 109. Title I, as amended by section 108 of this Act, is further amended by adding at the end thereof the following new sections:

"TRIBAL CULTURE AND HISTORY

"SEC. 113. (a) The Secretary, acting through the Service, shall establish a program under which appropriate employees of the Service who serve particular Indian tribes shall receive educational instruction in the history and culture of such tribes and in the history of the Service. Education. 25 USC 1616f.

"(b) To the extent feasible, the program established under subsection (a) shall—

"(1) be carried out through tribally-controlled community colleges (within the meaning of section 2(4) of the Tribally Controlled Community College Assistance Act of 1978),

"(2) be developed in consultation with the affected tribal government, and

"(3) include instruction in Native American studies.

"(c) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, $1,000,000 to carry out the provisions of this section.

"INMED PROGRAM

"SEC. 114. (a) The Secretary is authorized to provide grants to at least 3 colleges and universities for the purpose of maintaining and expanding the Native American health careers recruitment program known as the 'Indians into Medicine Program' (hereinafter in this section referred to as 'INMED') as a means of encouraging Indians to enter the health professions. Grants. Schools and colleges. 25 USC 1616g. 102 STAT. 4797

"(b) The Secretary shall provide one of the grants authorized under subsection (a) to maintain the INMED program at the University of North Dakota, unless the Secretary makes a determination, based upon program reviews, that the program is not meeting the purposes of this section. North Dakota.

"(c)(1) The Secretary shall develop regulations for the competitive awarding of the grants provided under this section. Regulations.

"(2) Applicants for grants provided under this section shall agree to provide a program which—

"(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations which will be served by the program,

"(B) incorporates a program advisory board comprised of representatives from the tribes and communities which will be served by the program,

"(C) provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions,

"(D) provides tutoring, counseling and support to students who are enrolled in a health career program of study at the respective college or university, and

"(E) to the maximum extent feasible, employs qualified Indians in the program.

"(d) By no later than the date that is 3 years after the date of enactment of the Indian Health Care Amendments of 1988, the Secretary shall submit a report to the Congress on the program established under this section including recommendations for expansion or changes to the program. Reports.

"(e) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, $1,000,000 to carry out the provisions of this section.

"HEALTH TRAINING PROGRAMS OF COMMUNITY COLLEGES

Grants.
25 USC 1616h.

"SEC. 115. (a)(1) The Secretary, acting through the Service, shall award grants to community colleges for the purpose of assisting the community college in the establishment of programs which provide education in a health profession leading to a degree or diploma in a health profession for individuals who desire to practice such profession on an Indian reservation or in a tribal clinic.

"(2) The amount of any grant awarded to a community college under paragraph (1) for the first year in which such a grant is provided to the community college shall not exceed $100,000.

"(b)(1) The Secretary, acting through the Service, shall award grants to community colleges that have established a program described in subsection (a)(1) for the purpose of maintaining the program and recruiting students for the program.

"(2) Grants may only be made under this section to a community college which—

"(A) is accredited,

"(B) has access to a hospital facility, Service facility, or hospital that could provide training of nurses or health professionals,

102 STAT. 4798

"(C) has entered into an agreement with an accredited college or university medical school, the terms of which—

"(i) provide a program that enhances the transition and recruitment of students into advanced baccalaureate or graduate programs which train health professionals, and

"(ii) stipulate certifications necessary to approve internship and field placement opportunities at service unit facilities of the Service or at tribal health facilities,

"(D) has a qualified staff which has the appropriate certifications, and

"(E) is capable of obtaining State or regional accreditation of the program described in subsection (a)(1).

"(c) The Secretary shall encourage community colleges described in subsection (b)(2) to establish and maintain programs described in subsection (a)(1) by—

Contracts.

"(1) entering into agreements with such colleges for the provision of qualified personnel of the Service to teach courses of study in such programs, and

"(2) providing technical assistance and support to such colleges.

"(d) Any program receiving assistance under this section that is conducted with respect to a health profession shall also offer courses of study which provide advanced training for any health professional who—

"(1) has already received a degree or diploma in such health profession, and

"(2) provides clinical services on an Indian reservation, at a Service facility, or at a tribal clinic.

Such courses of study may be offered in conjunction with the college or university with which the community college has entered into the agreement required under subsection (b)(2)(C).

"(e) For purposes of this section—

"(1) The term 'community college' means—

"(A) a tribally controlled community college, or

"(B) a junior or community college.

"(2) The term 'tribally controlled community college' has the meaning given to such term by section 2(4) of the Tribally Controlled Community College Assistance Act of 1978.

"(3) The term 'junior or community college' has the meaning given to such term by section 312(e) of the Higher Education Act of 1965 (20 U.S.C. 1058(e)).

"(f) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, $1,500,000 to carry out the provisions of this section.

"ADDITIONAL INCENTIVES FOR HEALTH PROFESSIONALS

"SEC. 116. (a) The Secretary may provide the incentive special pay authorized under section 302(b) of title 37, United States Code, to civilian medical officers of the Indian Health Service who are assigned to, and serving in, positions included in the list established under subsection (b)(1) for which recruitment or retention of personnel is difficult. Wages. 25 USC 1616i.

"(b)(1) The Secretary shall establish and update on an annual basis a list of positions of health care professionals employed by, or assigned to, the Service for which recruitment or retention is difficult.

102 STAT. 4799

"(2)(A) The Secretary may pay a bonus to any commissioned officer or civil service employee, other than a commissioned medical officer, dental officer, optometrist, and veterinarian, who is employed in or assigned to, and serving in, a position in the Service included in the list established by the Secretary under paragraph (1).

"(B) The total amount of bonus payments made by the Secretary under this paragraph to any employee during any 1-year period shall not exceed $2,000.

"(c) The Secretary may establish programs to allow the use of flexible work schedules, and compressed work schedules, in accordance with the provisions of subchapter II of chapter 61 of title 5, United States Code, for health professionals employed by, or assigned to, the Service.

"(d) By no later than the date that is 6 months after the date of enactment of the Indian Health Care Amendments of 1988, the Secretary shall submit a report to the Congress on the limitation imposed on amounts of premium pay for overtime to any individual employed by, or assigned to, the Service. The report shall include an explanation of existing overtime pay policy, an estimate of the budget impact of removing limitations on overtime pay, a summary of problems associated with overtime pay limitations, and recommendations for changes to the overtime pay policy. Reports.

"(e) There are authorized to be appropriated $600,000 for each of the fiscal years 1990, 1991, and 1992 to carry out the provisions of this section.

"RETENTION BONUS

"SEC. 117. (a) The Secretary may pay a retention bonus to any physician or nurse employed by, or assigned to, and serving in, the Service either as a civilian employee or as a commissioned officer in the Regular or Reserve Corps of the Public Health Service who— Wages. 25 USC 1616j.

"(1) is assigned to, and serving in, a position included in the list established under section 116(b)(1) for which recruitment or retention of personnel is difficult,

"(2) the Secretary determines is needed by the Service,

"(3) has—

"(A) completed 3 years of employment with the Service, or

"(B) completed any service obligations incurred as a requirement of—

"(i) any Federal scholarship program, or

"(ii) any Federal education loan repayment program, and

"(4) enters into an agreement with the Service for continued employment for a period of not less than 1 year. Contracts.

"(b) The Secretary may establish rates for the retention bonus which shall provide for a higher annual rate for multiyear agreements than for single year agreements referred to in subsection (a)(4), but in no event shall the annual rate be more than $25,000 per annum.

"(c) The retention bonus for the entire period covered by the agreement described in subsection (a)(4) shall be paid at the beginning of the agreed upon term of service.

"(d) Any physician or nurse failing to complete the agreed upon term of service, except where such failure is through no fault of the
102 STAT. 4800 individual, shall be obligated to refund to the Government the full amount of the retention bonus for the period covered by the agreement, plus interest as determined by the Secretary in accordance with section 108(l)(2)(B).

"(e) There are authorized to be appropriated $3,200,000 for each of the fiscal years 1990, 1991, and 1992 to carry out the provisions of this section.".

REPORT ON RECRUITMENT AND RETENTION

25 USC 1611 note.

SEC. 110. (a) The Secretary of Health and Human Services shall establish an advisory panel composed of—

(1) 10 physicians or other health professionals who are employees of, or assigned to, the Indian Health Service,

(2) 3 representatives of tribal health boards, and

(3) 1 representative of an urban health care organization.

(b) The advisory panel established under subsection (a) shall conduct an investigation of—

(1) the administrative policies and regulatory procedures which impede the recruitment or retention of physicians and other health professionals by the Indian Health Service, and

(2) the regulatory changes necessary to establish pay grades for health professionals employed by, or assigned to, the Service that correspond to the pay grades established for positions provided under sections 4103 and 4104 of title 38, United States Code, and the costs associated with establishing such pay grades.

(c) By no later than the date that is 18 months after the date of enactment of this Act, the advisory panel established under subsection (a) shall submit to the Congress a report on the investigation conducted under subsection (b), together with any recommendations for administrative or legislative changes in existing law, practices, or procedures.

TITLE II—HEALTH SERVICES

IMPROVEMENT OF INDIAN HEALTH STATUS

SEC. 201. (a) Section 201 (25 U.S.C. 1621) is amended to read as follows:

"IMPROVEMENT OF INDIAN HEALTH STATUS

"SEC. 201. (a) The Secretary is authorized to expend funds which are appropriated under the authority of subsection (h), through the Service, for the purposes of—

"(1) raising the health status of Indians to zero deficiency,

"(2) eliminating backlogs in the provision of health care services to Indians,

"(3) meeting the health needs of Indians in an efficient and equitable manner, and

"(4) augmenting the ability of the Service to meet the following health service responsibilities with respect to those Indian tribes with the highest levels of health resources deficiency:

"(A) clinical care (direct and indirect) including clinical eye and vision care;

"(B) preventive health;

"(C) dental care (direct and indirect);

"(D) mental health, including community mental health services, inpatient mental health services, dormitory
102 STAT. 4801 mental health services, therapeutic and residential treatment centers, and training of traditional Indian practitioners;

"(E) emergency medical services;

"(F) treatment and control of, and rehabilitative care related to, alcoholism and drug abuse (including fetal alcohol syndrome) among Indians;

"(G) accident prevention programs;

"(H) home health care;

"(I) community health representatives; and

"(J) maintenance and repair.

"(b)(1) Any funds appropriated under the authority of subsection (h) shall not be used to offset or limit any appropriations made to the Service under the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, or any other provision of law.

"(2) Funds which are appropriated under the authority of subsection (h) may be allocated to, or used for the benefit of, any Indian tribe which has a health resources deficiency level at level I or II only if a sufficient amount of funds have been appropriated under the authority of subsection (h) to raise all Indian tribes to health resources deficiency level II.

"(3)(A) Funds appropriated under the authority of subsection (h) may be allocated on a service unit basis but such allocation shall be made in a manner which ensures that the requirement of paragraph (2) is met. The funds allocated to each service unit under this subparagraph shall be used by the service unit (in accordance with paragraph (2)) to raise the deficiency level of each tribe served by such service unit.

"(B) The apportionment of funds allocated to a service unit under subparagraph (A) among the health service responsibilities described in subsection (a)(4) shall be determined by the Service in consultation with the affected Indian tribes.

"(c) For purposes of this section—

"(1) The health resources deficiency levels of an Indian tribe are as follows:

"(A) level I—0 to 20 percent health resources deficiency;

"(B) level II—21 to 40 percent health resources deficiency;

"(C) level III—41 to 60 percent health resources deficiency;

"(D) level IV—61 to 80 percent health resources deficiency; and

"(E) level V—81 to 100 percent health resources deficiency.

"(2) The term 'health resources deficiency' means a percentage determined by dividing—

"(A) the excess, if any, of—

"(i) the value of the health resources that the Indian tribe needs, over

"(ii) the value of the health resources available to the Indian tribe, by

"(B) the value of the health resources that the Indian tribe needs.

"(3) The health resources available to an Indian tribe include health resources provided by the Service as well as health resources used by the Indian tribe, including services and financing systems provided by any Federal programs, private insurance, and programs of State or local governments. 102 STAT. 4802

"(4) Under regulations, the Secretary shall establish procedures which allow any Indian tribe to petition the Secretary for a review of any determination of the health resources deficiency level of such tribe.

"(d)(1) Programs administered by any Indian tribe or tribal organization under the authority of the Indian Self-Determination Act shall be eligible for funds appropriated under the authority of subsection (h) on an equal basis with programs that are administered directly by the Service.

"(2) If any funds allocated to a tribe or service unit under the authority of this section are used for a contract entered into under the Indian Self-Determination Act, a reasonable portion of such

funds may be used for health planning, training, technical assistance, and other administrative support functions.

Reports.

"(e) By no later than the date that is 60 days after the date of enactment of the Indian Health Care Amendments of 1988, the Secretary shall submit to the Congress the current health services priority system report of the Service for each Indian tribe or service unit, including newly recognized or acknowledged tribes. Such report shall set out—

"(1) the methodology then in use by the Service for determining tribal health resources deficiencies, as well as the most recent application of that methodology;

"(2) the level of health resources deficiency for each Indian tribe served by the Service;

"(3) the amount of funds necessary to raise all Indian tribes served by the Service below health resources deficiency level II to health resources deficiency level II;

"(4) the amount of funds necessary to raise all tribes served by the Service below health resources deficiency level I to health resources deficiency level I;

"(5) the amount of funds necessary to raise all tribes served by the Service to zero health resources deficiency; and

"(6) an estimate of—

"(A) the amount of health service funds appropriated under the authority of this Act, or any other Act, including the amount of any funds transferred to the Service, for the preceding fiscal year which is allocated to each service unit, Indian tribe, or comparable entity;

"(B) the number of Indians eligible for health services in each service unit or Indian tribe; and

"(C) the number of Indians using the Service resources made available to each service unit or Indian tribe.

President of U.S.

"(f)(1) The President shall include with the budget submitted to the Congress under section 1105 of title 31, United States Code, for each fiscal year a separate statement which specifies the amount of funds requested to carry out the provisions of this section for such fiscal year.

"(2) Funds appropriated under authority of this section for any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

"(g) Nothing in this section is intended to diminish the primary responsibility of the Service to eliminate existing backlogs in unmet health care needs, nor are the provisions of this section intended to discourage the Service from undertaking additional efforts to achieve parity among Indian tribes.

102 STAT. 4803

"(h) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $19,000,000 for fiscal year 1990,

"(2) $19,000,000 for fiscal year 1991, and

"(3) $20,000,000 for fiscal year 1992.

Any funds appropriated under the authority of this subsection shall be designated as the 'Indian Health Care Improvement Fund'.".

(b) Section 4 (25 U.S.C. 1603) is amended by striking out subsections (i), (j), and (k), and by inserting in lieu thereof the following new subsections:

"(i) 'Area office' means an administrative entity including a program office, within the Indian Health Service through which services and funds are provided to the service units within a defined geographic area.

"(j) 'Service unit' means—

"(1) an administrative entity within the Indian Health Service, or

"(2) a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination Act,

through which services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.".

CATASTROPHIC HEALTH PROGRAM

SEC. 202. Title II is amended by adding at the end thereof the following new section: 25 USC 1621a.

"CATASTROPHIC HEALTH EMERGENCY FUND

"SEC. 202. (a)(1) There is hereby established an Indian Catastrophic Health Emergency Fund (hereafter in this section referred to as the 'Fund') consisting of—

"(A) the amounts deposited under subsection (d), and

"(B) the amounts appropriated under subsection (e).

"(2) The Fund shall be administered by the Secretary, acting through the central office of the Service, solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service.

"(3) The Fund shall not be allocated, apportioned, or delegated on a service unit, area office, or any other basis.

"(4) No part of the Fund or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination Act.

"(b) The Secretary shall, through the promulgation of regulations consistent with the provisions of this section— Regulations.

"(1) establish a definition of disasters and catastrophic illnesses for which the cost of treatment provided under contract would qualify for payment from the Fund;

"(2) provide that a service unit shall not be eligible for reimbursement for the cost of treatment from the Fund until its cost of treating any victim of such catastrophic illness or disaster has reached a certain threshold cost which the Secretary shall establish at not less than $10,000 or not more than $20,000;

"(3) establish a procedure for the reimbursement of the portion of the costs incurred by— 102 STAT. 4804

"(A) service units or facilities of the Service, or

"(B) whenever otherwise authorized by the Service, non-Service facilities or providers,

in rendering treatment that exceeds such threshold cost;

"(4) establish a procedure for payment from the Fund in cases in which the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service; and

"(5) establish a procedure that will ensure that no payment shall be made from the Fund to any provider of treatment to the extent that such provider is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible.

"(c) Funds appropriated under subsection (e) shall not be used to offset or limit appropriations made to the Service under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, or any other law.

"(d) There shall be deposited into the Fund all reimbursements to which the Service is entitled from any Federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from the Fund.

"(e) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $12,000,000 for fiscal year 1989, and

"(2) for each of the fiscal years 1990, 1991, and 1992, such sums as may be necessary to restore the Fund to a level of $12,000,000 for such fiscal year.

Funds appropriated under the authority of this subsection shall remain available until expended.".

HEALTH PROMOTION AND DISEASE PREVENTION

25 USC 1621b note.

SEC. 203. (a) The Congress finds that health promotion and disease prevention activities will—

(1) improve the health and well being of Indians, and

(2) reduce the expenses for medical care of Indians.

(b) Section 4 (25 U.S.C. 1603), as amended by section 201(b) of this Act, is further amended by adding at the end thereof the following new subsections:

"(k) 'Health promotion' includes—

"(1) cessation of tobacco smoking,

"(2) reduction in the misuse of alcohol and drugs,

"(3) improvement of nutrition,

"(4) improvement in physical fitness,

"(5) family planning,

"(6) control of stress, and

"(7) pregnancy and infant care (including prevention of fetal alcohol syndrome).

"(l) 'Disease prevention' includes—

"(1) immunizations,

"(2) control of high blood pressure,

"(3) control of sexually transmittable diseases,

"(4) prevention and control of diabetes,

"(5) control of toxic agents,

"(6) occupational safety and health,

102 STAT. 4805

"(7) accident prevention,

"(8) fluoridation of water, and

"(9) control of infectious agents.".

(c) Title II (25 U.S.C. 1621, et seq.), as amended by section 202 of this Act, is further amended by adding at the end thereof the following new sections:

"HEALTH PROMOTION AND DISEASE PREVENTION SERVICES

25 USC 1621b.

"SEC. 203. (a) The Secretary, acting through the Service, shall provide health promotion and disease prevention services to Indians.

"(b) The Secretary shall submit to the President for inclusion in each statement which is required to be submitted to the Congress under section 201(f) an evaluation of—

"(1) the health promotion and disease prevention needs of Indians,

"(2) the health promotion and disease prevention activities which would best meet such needs,

"(3) the internal capacity of the Service to meet such needs, and

"(4) the resources which would be required to enable the Service to undertake the health promotion and disease prevention activities necessary to meet such needs.

"(c)(1) The Secretary shall establish at least 1 demonstration project (but no more than 4 demonstration projects) to determine the most effective and cost-efficient means of—

"(A) providing health promotion and disease prevention services,

"(B) encouraging Indians to adopt good health habits,

"(C) reducing health risks to Indians, particularly the risks of heart disease, cancer, stroke, diabetes, anxiety, depression, and lifestyle-related accidents,

"(D) reducing medical expenses of Indians through health promotion and disease prevention activities,

"(E) establishing a program—

"(i) which trains Indians in the provision of health promotion and disease prevention services to members of their tribe, and

"(ii) under which such Indians are available on a contract basis to provide such services to other tribes, and

"(F) providing training and continuing education to employees of the Service, and to paraprofessionals participating in the Community Health Representative Program, in the delivery of health promotion and disease prevention services.

"(2) The demonstration project described in paragraph (1) shall include an analysis of the cost effectiveness of organizational structures and of social and educational programs that may be useful in achieving the objectives described in paragraph (1).

"(3)(A) The demonstration project described in paragraph (1) shall be conducted in association with at least one—

"(i) health profession school,

"(ii) allied health profession or nurse training institution, or

"(iii) public or private entity that provides health care.

"(B) The Secretary is authorized to enter into contracts with, or make grants to, any school of medicine or school of osteopathy for the purpose of carrying out the demonstration project described in paragraph (1).

102 STAT. 4806

"(C) For purposes of this paragraph, the term 'school of medicine' and 'school of osteopathy' have the respective meaning given to such terms by section 701(4) of the Public Health Service Act (42 U.S.C. 292a(4)).

"(4) The Secretary shall submit to Congress a final report on the demonstration project described in paragraph (1) within 60 days after the termination of such project. Reports.

"(5) The demonstration project described in paragraph (1) shall be established by no later than the date that is 12 months after the date of enactment of the Indian Health Care Amendments of 1988 and shall terminate on the date that is 30 months after the date of enactment of such amendments.

"(6) There are authorized to be appropriated $500,000 for the purpose of carrying out the provisions of this subsection, such sum to remain available without fiscal year limitation.

"DIABETES PREVENTION, TREATMENT, AND CONTROL

"SEC. 204. (a)(1) The Secretary, in consultation with the tribes, shall determine— 25 USC 1621c.

"(A) by tribe and by Service unit of the Service the incidence of, and the types of complications resulting from, diabetes among Indians; and

"(B) based on subparagraph (A), the measures (including patient education) each Service unit should take to reduce the incidence of, and prevent, treat, and control the complications resulting from, diabetes among tribes within that Service unit.

"(2) Within 18 months after the date of enactment of the Indian Health Care Amendments of 1988, the Secretary shall prepare and transmit to the President and the Congress a report describing the determinations made and measures taken under paragraph (1) and making recommendations for additional funding to prevent, treat, and control diabetes among Indians. Reports.

"(b) The Secretary shall screen each Indian who receives services from the Service for diabetes and for conditions which indicate a high risk that the individual will become diabetic. Such screening may be done by a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination Act.

"(c)(1) The Secretary shall continue to maintain during fiscal years 1988 through 1991 each of the following model diabetes projects which are in existence on the date of enactment of the Indian Health Care Amendments of 1988: State listing.

"(A) Claremore Indian Hospital in Oklahoma;

"(B) Fort Totten Health Center in North Dakota;

"(C) Sacaton Indian Hospital in Arizona;

"(D) Winnebago Indian Hospital in Nebraska;

"(E) Albuquerque Indian Hospital in New Mexico;

"(2) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of preparing an inventory of all health care programs (public and private) within the State of Hawaii that are available for the treatment, prevention, or control of diabetes among Native Hawaiians. 102 STAT. 4808

"(3) By no later than the date that is two years after the date of enactment of this section, the Native Hawaiian organization with whom the Secretary has entered into a contract, shall prepare and transmit to the Secretary a report describing the determinations made under paragraph (1), containing the inventory prepared under paragraph (2), and describing the research activities conducted under this subsection. The Secretary shall submit the report to the Congress and the President. Reports.

"(c)(1) By no later than the date that is three years after the date of enactment of this section, the Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of implementing a program designed—

"(A) to establish a diabetes control program;

"(B) to screen those Native Hawaiian individuals that have been identified as having a high risk of becoming diabetic;

"(C) to effectively treat—

"(i) individuals diagnosed as diabetics in order to reduce further complications from diabetes,

"(ii) individuals who have a high risk of becoming diabetic in order to reduce the incidence of diabetes, and

"(iii) short- and long-term complications of diabetes;

"(D) to conduct for Federal, State, and other Native Hawaiian health care providers (including Native Hawaiian community health outreach workers), training programs concerning current methods of prevention, diagnosis, and treatment of diabetes and related complications among Native Hawaiians;

"(E) to determine the appropriate delivery to Native Hawaiians of health care services relating to diabetes;

"(F) to develop and present health education information to Native Hawaiian communities and schools concerning the prevention, treatment, and control of diabetes; and

"(G) to ensure that proper continuing health care is provided to Native Hawaiians who are diagnosed as being diabetic.

"(2) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of—

"(A) promoting coordination and cooperation between all health care providers in the delivery of diabetes related services to Native Hawaiians; and

"(B) encouraging and funding joint projects between Federal programs, State health care facilities, community health centers, and Native Hawaiian communities for the prevention and treatment of diabetes.

"(3)(A) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of establishing a model diabetes program to serve Native Hawaiians in the State of Hawaii.

"(B) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of developing and implementing an outreach program to ensure that the achievements and benefits derived from the activities of the model diabetes program established under subparagraph (A) are applied in Native Hawaiian communities to assure the diagnosis, prevention, and treatment of diabetes among Native Hawaiians. 102 STAT. 4809

"(4) The Secretary shall submit to the Congress an annual report outlining the activities, achievements, needs, and goals of the Native Hawaiian diabetes care program established under this paragraph. Reports.

"(d) The Secretary shall enter into a contract with a Native Hawaiian organization, for the purpose of developing a standardized system to collect, analyze, and report data regarding diabetes and related complications among Native Hawaiians. Such system shall be designed to facilitate dissemination of the best available information on diabetes to Native Hawaiian communities and health care professionals. Public information.

"(e) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of—

"(1) conducting research concerning the causes, diagnosis, treatment, and prevention of diabetes and related complications among Native Hawaiians, and

"(2) coordinating such research with all other relevant agencies and units of the government of the State of Hawaii and the Department of Health and Human Services which conduct research relating to diabetes and related complications.

Reports.

"(f) The Secretary shall submit to the Congress an annual report on the status and accomplishments of the progress established under this section during each of the fiscal years 1990, 1991, and 1992.

"(g)(1) The Secretary shall include in any contract which the Secretary enters into with any Native Hawaiian organization under this subsection such conditions as the Secretary considers necessary to ensure that the objectives of such contract are achieved.

"(2) The Secretary shall develop procedures to evaluate compliance with, and performance of, contracts entered into by Native Hawaiian organizations under this subsection.

"(3) The Secretary shall conduct an evaluation of each Native Hawaiian organization which has entered into a contract under this subsection for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract.

"(4) If, as a result of the evaluations conducted under paragraph (3), the Secretary determines that a Native Hawaiian organization has not complied with or satisfactorily performed a contract entered into under this subsection, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such organization and is authorized to enter into a contract under this subsection with another Native Hawaiian organization that serves the same population of Native Hawaiians which is served by the Native Hawaiian organization whose contract is not renewed by reason of this subparagraph.

"(5) In determining whether to renew a contract entered into with a Native Hawaiian organization under this subsection, the Secretary shall—

"(A) review the records of the Native Hawaiian organization, and

"(B) shall consider the results of the onsite evaluations conducted under paragraph (3).

102 STAT. 4810

"(6) All contracts entered into by the Secretary under this subsection shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provision of the Act of August 24, 1935 (40 U.S.C. 270a, et seq.).

"(7) Payments made under any contract entered into under this subsection may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this subsection.

"(8) Notwithstanding any other provision of law, the Secretary may, at the request or consent of a Native Hawaiian organization, revise or amend any contract entered into by the Secretary with such organization under this subsection as necessary to carry out the purposes of this subsection.

Reports.

"(9)(A) For each fiscal year during which a Native Hawaiian organization receives or expends funds pursuant to a contract entered into under this subsection, such organization shall submit to the Secretary a quarterly report on—

"(i) activities conducted by the organization under the contract,

"(ii) the amounts and purposes for which Federal funds were expended, and

"(iii) such other information as the Secretary may request.

"(B) The reports and records of any Native Hawaiian organization which concern any contract entered into under this subsection shall be subject to audit by the Secretary and the Comptroller General of the United States.

"(10) The Secretary shall allow as a cost of any contract entered into under this subsection the cost of an annual private audit conducted by a certified public accountant.

"(11) The authority of the Secretary to enter into contracts under this subsection shall be to the extent, and in amounts, provided for in appropriation Acts.

"(h) For purposes of this subsection—

"(1) The term 'Native Hawaiian' means any individual who—

"(A) is a citizen of the United States,

"(B) is a resident of the State of Hawaii, and

"(C) is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by—

"(i) genealogical records,

"(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

"(iii) birth records of the State of Hawaii.

"(2) The term 'Native Hawaiian organization' means any organization—

"(A) which serves and represents the interests of Native Hawaiians,

"(B) which is recognized by the Department of Health of the State of Hawaii, the Office of Hawaiian Affairs of the State of Hawaii, and E Ola Mau for the purpose of planning, conducting, or administering programs (or portion of programs) authorized under this Act for Native Hawaiians, and

102 STAT. 4811

"(C) in which Native Hawaiian health professionals significantly participate in the planning, management, monitoring, and evaluation of health services.

"(i) There are authorized to be appropriated $750,000 for each of the fiscal years 1990, 1991, 1992, and 1993, for the purpose of carrying out the provisions of this subsection.

"(j) The programs and services established by this section shall not be administered by or through the Indian Health Service nor shall any funds appropriated to the Indian Health Service be used to supplement funding of such programs and services.".

REIMBURSEMENT OF CERTAIN EXPENSES; RESEARCH

SEC. 204. Title II, as amended by section 203(c), is further amended by adding at the end thereof the following new sections:

"REIMBURSEMENT FROM CERTAIN THIRD PARTIES OF COSTS OF HEALTH SERVICES

"SEC. 206. (a) The United States shall have the right to recover the reasonable expenses incurred by the Secretary in providing health services, through the Service, to any individual to the same extent that such individual, or any nongovernmental provider of such services, would be eligible to receive reimbursement or indemnification for such expenses if— 25 USC 1621e.

"(1) such services had been provided by a nongovernmental provider, and

"(2) such individual had been required to pay such expenses and did pay such expenses.

"(F) Perry, Princeton, and Old Town Health Centers in Maine; and

"(G) Bellingham Health Center in Washington.

State listing.

"(2) The Secretary shall establish in fiscal year 1989, and maintain during fiscal years 1989 through 1991, a model diabetes project in each of the following locations:

"(A) Fort Berthold Reservation;

"(B) the Navajo Reservation;

102 STAT. 4807

"(C) the Papago Reservation;

"(D) the Zuni Reservation; and

"(E) the States of Alaska, California, Minnesota, Montana, Oregon, and Utah.

"(d) The Secretary shall—

"(1) employ in each area office of the Service at least one diabetes control officer who shall coordinate and manage on a full-time basis activities within that area office for the prevention, treatment, and control of diabetes;

"(2) establish in each area office of the Service a registry of patients with diabetes to track the incidence of diabetes and the complications from diabetes in that area; and

"(3) ensure that data collected in each area office regarding diabetes and related complications among Indians is disseminated to all other area offices.

"(e) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Funds appropriated under subsection (c) in any fiscal year shall be in addition to base resources appropriated to the Service for that year.

Contracts.

"NATIVE HAWAIIAN HEALTH PROMOTION AND DISEASE PREVENTION

25 USC 1621d.

"SEC. 205. (a)(1) The Secretary shall, acting through the Public Health Service, establish in the State of Hawaii, as a demonstration project, a Native Hawaiian Program for Health Promotion and Disease Prevention for the purpose of exploring ways to meet the unique health care needs of Native Hawaiians.

"(2) The demonstration program that is to be established under paragraph (1) shall—

"(A) provide necessary preventive-oriented health services, including health education and mental health care,

"(B) develop innovative training and research projects,

"(C) establish cooperative relationships with the leadership of the Native Hawaiian community,

"(D) ensure that a continuous effort is made to establish programs which can be of direct benefit to other Native American people, and

"(E) assure a comprehensive effort to reduce the incidence of diabetes among Native Hawaiians.

"(3) The Secretary is authorized to enter into contracts with Native Hawaiian organizations for the purpose of assisting the Secretary in meeting the objectives of the demonstration program that is to be established under paragraph (1).

"(b)(1) In fulfillment of the objective set forth in subsection (a)(2)(E), the Secretary shall enter into a contract with a Native Hawaiian organization to conduct a study to determine—

"(A) the incidence of diabetes among Native Hawaiians;

"(B) activities which should be undertaken—

"(i) to reduce the incidence of diabetes among Native Hawaiians,

"(ii) to provide Native Hawaiians with guidance in the prevention, treatment, and control of diabetes,

"(iii) to provide early diagnosis of diabetes among Native Hawaiians, and

"(iv) to ensure that proper continuing health care is provided to Native Hawaiians who are diagnosed as diabetic.

"(b) Subsection (a) shall provide a right of recovery against any State, or any political subdivision of a State, only if the injury, illness, or disability for which health services were provided is covered under—

"(1) workers' compensation laws, or

"(2) a no-fault automobile accident insurance plan or program.

"(c) No law of any State, or of any political subdivision of a State, and no provision of any contract entered into or renewed after the date of enactment of the Indian Health Care Amendments of 1988, shall prevent or hinder the right of recovery of the United States under subsection (a).

"(d) No action taken by the United States to enforce the right of recovery provided under subsection (a) shall affect the right of any person to any damages (other than damages for the cost of health services provided by the Secretary through the Service).

"(e) The United States may enforce the right of recovery provided under subsection (a) by—

"(1) intervening or joining in any civil action or proceeding brought—

"(A) by the individual for whom health services were provided by the Secretary, or

"(B) by any representative or heirs of such individual, or

"(2) instituting a separate civil action, after providing to such individual, or to the representative or heirs of such individual, notice of the intention of the United States to institute a separate civil action.

102 STAT. 4812

"CREDITING OF REIMBURSEMENTS

25 USC 1621f.

"SEC. 207. (a) Except as provided in section 202(d), title IV, and section 713 of this Act, all reimbursements received or recovered, under authority of this Act, Public Law 87-693 (42 U.S.C. 2651, et seq.), or any other provision of law, by reason of the provision of health services by the Service or by a tribe or tribal organization under a contract pursuant to the Indian Self-Determination Act shall be retained by the Service or that tribe or tribal organization and shall be available for the facilities, and to carry out the programs, of the Service or that tribe or tribal organization to provide health care services to Indians.

"(b) The Service may not offset or limit the amount of funds obligated to any service unit or any entity under contract with the Service because of the receipt of reimbursements under subsection (a).

"HEALTH SERVICES RESEARCH

25 USC 1621g.

"SEC. 208. Of the amounts appropriated for the Service in any fiscal year, other than amounts made available for the Indian Health Care Improvement Fund, not less than $200,000 shall be available only for research to further the performance of the health service responsibilities of the Service. Indian tribes and tribal organizations contracting with the Service under the authority of the Indian Self-Determination Act shall be given an equal opportunity to compete for, and receive, research funds under this section.".

Discrimination, prohibition.

TITLE III—HEALTH FACILITIES

CONSULTATION; CLOSURE OF FACILITIES; REPORTS

SEC. 301. Section 301 (25 U.S.C. 1631) is amended to read as follows:

"CONSULTATION; CLOSURE OF FACILITIES; REPORTS

"SEC. 301. (a) Prior to the expenditure of, or the making of any firm commitment to expend, any funds appropriated for the plan-

ning, design, construction, or renovation of facilities pursuant to the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, acting through the Service, shall—

"(1) consult with any Indian tribe that would be significantly affected by such expenditure for the purpose of determining and, whenever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made, and

"(2) ensure, whenever practicable, that such facility meets the standards of the Joint Commission on Accreditation of Hospitals by not later than 1 year after the date on which the construction or renovation of such facility is completed.

"(b)(1) Notwithstanding any provision of law other than this subsection, no Service hospital or other outpatient health care facility of the Service, or any portion of such a hospital or facility, may be closed if the Secretary has not submitted to the Congress at least 1 year prior to the date such hospital or facility (or portion thereof) is proposed to be closed an evaluation of the impact of such proposed closure which specifies, in addition to other considerations— 102 STAT. 4813

"(A) the accessibility of alternative health care resources for the population served by such hospital or facility;

"(B) the cost effectiveness of such closure;

"(C) the quality of health care to be provided to the population served by such hospital or facility after such closure;

"(D) the availability of contract health care funds to maintain existing levels of service; and

"(E) the views of the Indian tribes served by such hospital or facility concerning such closure.

"(2) Paragraph (1) shall not apply to any temporary closure of a facility or of any portion of a facility if such closure is necessary for medical, environmental, or safety reasons.

"(c) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each of the fiscal years 1990, 1991, and 1992, program information documents for the construction of 10 Indian health facilities which— President of U.S.

"(1) comply with applicable construction standards, and

"(2) have been approved by the Secretary.

"(d)(1) The Secretary shall submit to the Congress an annual report which sets forth— Reports.

"(A) the current health facility priority system of the Service,

"(B) the planning, design, construction, and renovation needs for the 10 top-priority inpatient care facilities and the 10 top-priority ambulatory care facilities (together with required staff quarters),

"(C) the justification for such order of priority,

"(D) the projected cost of such projects, and

"(E) the methodology adopted by the Service in establishing priorities under its health facility priority system.

"(2) The first report required under paragraph (1) shall be submitted by no later than the date that is 180 days after the date of enactment of the Indian Health Care Amendments of 1988 and, beginning in 1990, each subsequent annual report shall be submitted by the date that is 60 days after the date on which the President submits the budget to the Congress under section 1105 of title 31, United States Code.

"(3) In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall—

"(A) consult with Indian tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities under any contract entered into with the Service under the Indian Self-Determination Act, and

"(B) review the needs of such tribes and tribal organizations for inpatient and outpatient facilities, including their needs for renovation and expansion of existing facilities.

"(4) For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any contract entered into with the Service under the Indian Self-Determination Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

"(5) The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities which are the subject of a contract for health services entered into with the Service under the Indian Self-Determination Act are fully and equitably integrated into the development of the health facility priority system.

102 STAT. 4814

"(e) All funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13), for the planning, design, construction, or renovation of health facilities for the benefit of an Indian tribe or tribes shall be subject to the provisions of sections 102 and 103(b) of the Indian Self-Determination Act.".

SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES

SEC. 302. Section 302 (25 U.S.C. 1632) is amended to read as follows:

"SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES

"SEC. 302. (a) The Congress hereby finds and declares that—

"(1) the provision of safe water supply systems and sanitary sewage and solid waste disposal systems is primarily a health consideration and function;

"(2) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of such systems;

"(3) the long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing such systems and other preventive health measures;

"(4) many Indian homes and communities still lack safe water supply systems and sanitary sewage and solid waste disposal systems; and

"(5) it is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with safe and adequate water supply systems and sanitary sewage waste disposal systems as soon as possible.

"(b)(1) In furtherance of the findings and declarations made in subsection (a), Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

"(2) The Secretary, acting through the Service, is authorized to provide under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a)—

"(A) financial and technical assistance to Indian tribes and communities in the establishment, training, and equipping of utility organizations to operate and maintain Indian sanitation facilities;

"(B) ongoing technical assistance and training in the management of utility organizations which operate and maintain sanitation facilities; and

"(C) operation and maintenance assistance for, and emergency repairs to, tribal sanitation facilities when necessary to avoid a health hazard or to protect the Federal investment in sanitation facilities.

"(3) Notwithstanding any other provision of law—

"(A) the Secretary of Housing and Urban Affairs is authorized to transfer funds appropriated under the Housing and Commu-

nity Development Act of 1974 (42 U.S.C. 5301, et seq.) to the Secretary of Health and Human Services, and 102 STAT. 4815

"(B) the Secretary of Health and Human Services is authorized to accept and use such funds for the purpose of providing sanitation facilities and services for Indians under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

"(c) Beginning in fiscal year 1990, the Secretary, acting through the Service, shall develop and begin implementation of a 10-year plan to provide safe water supply and sanitation sewage and solid waste disposal facilities to existing Indian homes and communities and to new and renovated Indian homes.

"(d) The financial and technical capability of an Indian tribe or community to safely operate and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.

"(e) The provisions of this section shall not diminish the primary responsibility of the Indian family, community, or tribe to establish, collect, and utilize reasonable user fees, or otherwise set aside funding, for the purpose of operating and maintaining sanitation facilities.

"(f) Programs administered by Indian tribes or tribal organizations under the authority of the Indian Self-Determination Act shall be eligible for—

"(1) any funds appropriated pursuant to subsection (h), and

"(2) any funds appropriated for the purpose of providing water supply or sewage disposal services,

on an equal basis with programs that are administered directly by the Service.

"(g)(1) The Secretary shall submit to the Congress an annual report which sets forth— Reports.

"(A) the current Indian sanitation facility priority system of the Service;

"(B) the methodology for determining sanitation deficiencies;

"(C) the level of sanitation deficiency for each sanitation facilities project of each Indian tribe or community;

"(D) the amount of funds necessary to raise all Indian tribes and communities to a level I sanitation deficiency; and

"(E) the amount of funds necessary to raise all Indian tribes and communities to zero sanitation deficiency.

"(2) The first report required under paragraph (1) shall be submitted by no later than the date that is 180 days after the date of enactment of the Indian Health Care Amendments of 1988 and, beginning in 1990, each subsequent annual report shall be submitted by the date that is 60 days after the date on which the President submits the budget to the Congress under section 1105 of title 31, United States Code.

"(3) In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall consult with Indian tribes and tribal organizations (including those tribes or tribal organizations operating health care programs or facilities under any contract entered into with the Service under the Indian Self-Determination Act) to determine the sanitation needs of each tribe.

"(4) The methodology used by the Secretary in determining sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian tribes and communities.

"(5) For purposes of this subsection, the sanitation deficiency levels for an Indian tribe or community are as follows: 102 STAT. 4816

"(A) level I is an Indian tribe or community with a sanitation system—

"(i) which complies with all applicable water supply and pollution control laws, and

"(ii) in which the deficiencies relate to routine replacement, repair, or maintenance needs;

"(B) level II is an Indian tribe or community with a sanitation system—

"(i) which complies with all applicable water supply and pollution control laws, and

"(ii) in which the deficiencies relate to capital improvements that are necessary to improve the facilities in order to meet the needs of such tribe or community for domestic sanitation facilities;

"(C) level III is an Indian tribe or community with a sanitation system which—

"(i) has an inadequate or partial water supply and a sewage disposal facility that does not comply with applicable water supply and pollution control laws, or

"(ii) has no solid waste disposal facility;

"(D) level IV is an Indian tribe or community with a sanitation system which lacks either a safe water supply system or a sewage disposal system; and

"(E) level V is an Indian tribe or community that lacks a safe water supply and a sewage disposal system.

"(6) For purposes of this subsection, any Indian tribe or community that lacks the operation and maintenance capability to enable its sanitation system to meet pollution control laws may not be treated as having a level I or II sanitation deficiency.

"(h)(1) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, $3,000,000 for the purpose of providing funds necessary to implement the responsibilities of the Service described in subsection (b)(2).

"(2) In addition to the amount authorized under paragraph (1), there are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, $850,000 for the sanitation service account of the Service which shall be used to carry out the responsibilities of the Service described in subsection (b)(2).".

USE OF NON-SERVICE FUNDS FOR RENOVATION

SEC. 303. (a) Section 305 (25 U.S.C. 1634) is amended to read as follows:

"EXPENDITURE OF NON-SERVICE FUNDS FOR RENOVATION

"SEC. 305. (a) Notwithstanding any other provision of law, the Secretary is authorized to accept any major renovation or modernization by any Indian tribe of any Service facility, or of any other Indian health facility operated pursuant to a contract entered into under the Indian Self-Determination Act, including—

"(1) any plans or designs for such renovation or modernization, and

"(2) any renovation or modernization for which funds appropriated under any Federal law were lawfully expended,

102 STAT. 4817

but only if the requirements of subsection (b) are met.

"(b) The requirements of this subsection are met with respect to any renovation or modernization if the renovation or modernization—

"(1) does not require or obligate the Secretary to provide any additional employees or equipment,

"(2) is approved by the appropriate area director of the Service, and

"(3) is administered by the Indian tribe in accordance with the rules and regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

"(c) A renovation or modernization shall not be authorized by this section if such renovation or modernization would require the diversion of funds appropriated to the Service from any project which has a higher priority under the health facility priority system of the Service.

"(d) If any Service facility which has been renovated or modernized by an Indian tribe under this section ceases to be used as a Service facility during the 20-year period beginning on the date such renovation or modernization is completed, such Indian tribe shall be entitled to recover from the United States an amount which bears

the same ratio to the value of such facility at the time of such cessation as the value of such renovation or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such renovation or modernization) bore to the value of such facility at the time of the completion of such renovation or modernization.".

(b) The paragraph relating to administrative provisions of the Health Services Administration under the heading "Department of Health and Human Services" in title II of the matter contained in section 101(c) of Public Law 98–473 (98 Stat. 1864) is amended by striking out the sixth proviso. 25 USC 1635.

BETHEL, ALASKA, HOSPITAL

SEC. 304. Title III is amended by adding at the end thereof the following new section:

"BETHEL, ALASKA, HOSPITAL

"SEC. 306. (a) If a final administrative ruling by the Department of the Interior holds that the Bethel Native Corporation is entitled to conveyance under the Alaska Native Claims Settlement Act of the title to the real property described in subsection (d)(1), such ruling shall be subject to judicial review. Real property. 25 USC 1636.

"(b) The Secretary is authorized to enter into an agreement with Bethel Native Corporation for an exchange of the real property described in subsection (d)(1) for—

"(1) the lands described in subsection (d)(2), or

"(2) any other Federal property which Bethel Native Corporation would have been able to select under the Alaska Native Claims Settlement Act.

"(c) If an agreement for the exchange of land is not entered into under subsection (b) before the date that is 90 days after the date on which a ruling described in subsection (a) becomes final and is no longer appealable, the Secretary shall, subject to the availability of funds provided by Appropriations Acts, purchase the lands described in subsection (d)(1) at fair market value. 102 STAT. 4818

"(d)(1) The real property referred to in subsection (a) is United States Survey Numbered 4000, other than the lands described in paragraph (2).

"(2) The lands referred to in subsection (b)(1) are the lands identified as tracts A and B in the determination AA–18959 of the Bureau of Land Management issued on September 30, 1983, pursuant to the Alaska Native Claims Settlement Act.".

TITLE IV—ACCESS TO HEALTH SERVICES

MEDICAID PROVISIONS

SEC. 401. (a) Subsection (c) of section 402 (42 U.S.C. 1396j, note) is amended—

(1) by striking out "or skilled nursing facility" and inserting in lieu thereof "skilled nursing facility, or any other type of facility which provides services of a type otherwise covered under a State plan for medical assistance approved under title XIX of the Social Security Act",

(2) by striking out "a State plan approved under title XIX of the Social Security Act" and inserting in lieu thereof "such a State plan", and

(3) by striking out "The preceding sentence shall" and inserting in lieu thereof "In making payments from such fund, the Secretary shall ensure that each service unit of the Indian Health Service receives at least 50 percent of the amounts to which the facilities of the Indian Health Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act, if such amount is necessary for the purpose of making improvements in such facilities in order

to achieve compliance with the conditions and requirements of title XIX of the Social Security Act. This subsection shall".

42 USC 1396j note.

(b) Subsection (b) of section 402 (42 U.S.C. 1396j, note) is repealed.

42 USC 1396j note.

(c) The amendments made by this section shall apply to services performed on or after the date of the enactment of this Act.

DEMONSTRATION PROGRAM

SEC. 402. Title IV is amended by adding at the end thereof the following new section:

"DEMONSTRATION PROGRAM FOR DIRECT BILLING OF MEDICARE, MEDICAID, AND OTHER THIRD PARTY PAYORS

Health care facilities.
42 USC 1395qq note.

"SEC. 405. (a) The Secretary shall establish a demonstration program under which Indian tribes, tribal organizations, and Alaska Native health organizations, which are contracting the entire operation of an entire hospital or clinic of the Service under the authority of the Indian Self-Determination Act, shall directly bill for, and receive payment for, health care services provided by such hospital or clinic for which payment is made under title XVIII of the Social Security Act (medicare), under a State plan for medical assistance approved under title XIX of the Social Security Act (medicaid), or from any other third-party payor. The last sentence of section 1905(b) of the Social Security Act shall apply for purposes of the demonstration program.

"(b)(1) Each hospital or clinic participating in the demonstration program described in subsection (a) shall be reimbursed directly under the medicare and medicaid programs for services furnished, without regard to the provisions of section 1880(c) of the Social Security Act and sections 402(c) and 713(b)(2)(A) of this Act, but all funds so reimbursed shall first be used by the hospital or clinic for the purpose of making any improvements in the hospital or clinic that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under the medicare or medicaid program. Any funds so reimbursed which are in excess of the amount necessary to achieve or maintain such conditions or requirements shall be used—

102 STAT. 4819

"(A) solely for improving the health resources deficiency level of the Indian tribe, and

"(B) in accordance with the regulations of the Service applicable to funds provided by the Service under any contract entered into under the Indian Self-Determination Act.

"(2) The amounts paid to the hospitals and clinics participating in the demonstration program described in subsection (a) shall be subject to all auditing requirements applicable to programs administered directly by the Service and to facilities participating in the medicare and medicaid programs.

"(3) The Secretary shall monitor the performance of hospitals and clinics participating in the demonstration program described in subsection (a), and shall require such hospitals and clinics to submit reports on the program to the Secretary on a quarterly basis (or more frequently if the Secretary deems it to be necessary).

"(4) Notwithstanding section 1880(c) of the Social Security Act or section 402(c) of this Act, no payment may be made out of the special fund described in section 1880(c) of the Social Security Act, or section 402(c) of this Act, for the benefit of any hospital or clinic participating in the demonstration program described in subsection (a) during the period of such participation.

"(c)(1) In order to be considered for participation in the demonstration program described in subsection (a), a hospital or clinic must submit an application to the Secretary which establishes to the satisfaction of the Secretary that—

"(A) the Indian tribe, tribal organization, or Alaska Native health organization contracts the entire operation of the Service facility;

"(B) the facility is eligible to participate in the medicare and medicaid programs under sections 1880 and 1911 of the Social Security Act;

"(C) the facility meets any requirements which apply to programs operated directly by the Service; and

"(D) the facility is accredited by the Joint Commission on Accreditation of Hospitals, or has submitted a plan, which has been approved by the Secretary, for achieving such accreditation prior to October 1, 1990.

"(2) From among the qualified applicants, the Secretary shall, prior to October 1, 1989, select no more than 4 facilities to participate in the demonstration program described in subsection (a). The demonstration program described in subsection (a) shall begin by no later than October 1, 1991, and end on September 30, 1995.

"(d)(1) Upon the enactment of the Indian Health Care Amendments of 1988, the Secretary, acting through the Service, shall commence an examination of—

"(A) any administrative changes which may be necessary to allow direct billing and reimbursement under the demonstration program described in subsection (a), including any agreements with States which may be necessary to provide for such direct billing under the medicaid program; and 102 STAT. 4820

"(B) any changes which may be necessary to enable participants in such demonstration program to provide to the Service medical records information on patients served under such demonstration program which is consistent with the medical records information system of the Service.

"(2) Prior to the commencement of the demonstration program described in subsection (a), the Secretary shall implement all changes required as a result of the examinations conducted under paragraph (1).

"(3) Prior to October 1, 1990, the Secretary shall determine any accounting information which a participant in the demonstration program described in subsection (a) would be required to report.

"(e) The Secretary shall submit a final report at the end of fiscal year 1995, on the activities carried out under the demonstration program described in subsection (a) which shall include an evaluation of whether such activities have fulfilled the objectives of such program. In such report the Secretary shall provide a recommendation, based upon the results of such demonstration program, as to whether direct billing of, and reimbursement by, the medicare and medicaid programs and other third-party payors should be authorized for all Indian tribes and Alaska Native health organizations which are contracting the entire operation of a facility of the Service. Reports.

"(f) The Secretary shall provide for the retrocession of any contract entered into between a participant in the demonstration program described in subsection (a) and the Service under the authority of the Indian Self-Determination Act. All cost accounting and billing authority shall be retroceded to the Secretary upon the Secretary's acceptance of a retroceded contract.". Contracts.

TITLE V—URBAN INDIAN HEALTH SERVICES

REVISION OF PROGRAM

SEC. 501. Title V (25 U.S.C. 1651, et seq.) is amended to read as follows:

"TITLE V—HEALTH SERVICES FOR URBAN INDIANS

"PURPOSE

"SEC. 501. The purpose of this title is to establish programs in urban centers to make health services more accessible to urban Indians. 25 USC 1651.

"CONTRACTS WITH URBAN INDIAN ORGANIZATIONS

25 USC 1652.

"SEC. 502. Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, shall enter into contracts with urban Indian organizations to assist such organizations in the establishment and administration, within the urban centers in which such organizations are situated, of programs which meet the requirements set forth in this title. The Secretary, through the Service, shall include such conditions as the Secretary considers necessary to effect the purpose of this title in any contract which the Secretary enters into with any urban Indian organization pursuant to this title.

102 STAT. 4821

"CONTRACTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES

25 USC 1653.

"SEC. 503. (a) Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, shall enter into contracts with urban Indian organizations for the provision of health care and referral services for urban Indians residing in the urban centers in which such organizations are situated. Any such contract shall include requirements that the urban Indian organization successfully undertake to—

"(1) estimate the population of urban Indians residing in the urban center in which such organization is situated who are or could be recipients of health care or referral services;

"(2) estimate the current health status of urban Indians residing in such urban center;

"(3) estimate the current health care needs of urban Indians residing in such urban center;

"(4) identify all public and private health services resources within such urban center which are or may be available to urban Indians;

"(5) determine the use of public and private health services resources by the urban Indians residing in such urban center;

"(6) assist such health services resources in providing services to urban Indians;

"(7) assist urban Indians in becoming familiar with and utilizing such health services resources;

"(8) provide basic health education, including health promotion and disease prevention education, to urban Indians;

"(9) establish and implement training programs to accomplish the referral and education tasks set forth in paragraphs (6) through (8) of this subsection;

"(10) identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;

"(11) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

"(12) where necessary, provide, or enter into contracts for the provision of, health care services for urban Indians.

"(b) The Secretary, through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations to enter into contracts under this section. Such criteria shall, among other factors, include—

"(1) the extent of unmet health care needs of urban Indians in the urban center involved;

"(2) the size of the urban Indian population in the urban center involved;

"(3) the accessibility to, and utilization of, health care services (other than services provided under this title) by urban Indians in the urban center involved;

"(4) the extent, if any, to which the activities set forth in subsection (a) would duplicate—

"(A) any previous or current public or private health services project in an urban center that was or is funded in a manner other than pursuant to this title; or

"(B) any project funded under this title;

"(5) the capability of an urban Indian organization to perform the activities set forth in subsection (a) and to enter into a contract with the Secretary under this section;

"(6) the satisfactory performance and successful completion by an urban Indian organization of other contracts with the Secretary under this title;

"(7) the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) in an urban center; and

"(8) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other agencies.

102 STAT. 4822

"CONTRACTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS

"SEC. 504. (a) Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, may enter into contracts with urban Indian organizations situated in urban centers for which contracts have not been entered into under section 503. The purpose of a contract under this section shall be the determination of the matters described in subsection (b)(1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract under section 503 with the urban Indian organization with which the Secretary has entered into a contract under this section.

25 USC 1654.

"(b) Any contract entered into by the Secretary under this section shall include requirements that—

"(1) the urban Indian organization successfully undertake to—

"(A) document the health care status and unmet health care needs of urban Indians in the urban center involved; and

"(B) with respect to urban Indians in the urban center involved, determine the matters described in clauses (2), (3), (4), and (8) of section 503(b); and

"(2) the urban Indian organization complete performance of the contract within one year after the date on which the Secretary and such organization enter into such contract.

"(c) The Secretary may not renew any contract entered into under this section.

"EVALUATIONS; CONTRACT RENEWALS

"SEC. 505. (a) The Secretary, through the Service, shall develop procedures to evaluate compliance with, and performance of contracts entered into by urban Indian organizations under this title. Such procedures shall include provisions for carrying out the requirements of this section.

25 USC 1655.

"(b) The Secretary, through the Service, shall conduct an annual onsite evaluation of each urban Indian organization which has entered into a contract under section 503 for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract.

102 STAT. 4823

"(c) If, as a result of the evaluations conducted under this section, the Secretary determines that an urban Indian organization has not complied with or satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract, attempt to resolve with such organization the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such

practitioners in rural areas and make rural practice a more attractive career choice for health care practitioners.

"(2) A recipient of funds under subsection (a) may use various methods in carrying out the projects described in paragraph (1), including—

"(A) the distribution of stipends to students of eligible applicants;

"(B) the establishment of a post-graduate fellowship program;

"(C) the training of faculty in the economic and logistical problems confronting rural health care delivery systems; or

102 STAT. 4835

"(D) the purchase or rental of transportation and telecommunication equipment where the need for such equipment due to unique characteristics of the rural area is demonstrated by the recipient.

"(3)(A) An applicant shall not use more than 10 percent of the funds made available to such applicant under subsection (a) for administrative expenses.

"(B) Not more than 10 percent of the individuals receiving training with funds made available to an applicant under subsection (a) shall be trained as doctors of medicine or doctors of osteopathy.

"(c) Applicants eligible to obtain funds under subsection (a) shall include nonprofit organizations and public or nonprofit colleges, universities, or schools of, or programs that specialize in, nursing, psychology, social work, optometry, public health, dentistry, osteopathy, physicians assistants, pharmacy, podiatry, medicine, chiropractic, and allied health professions if such applicants submit applications approved by the Secretary under subsection (d). Applicants eligible to obtain funds under subsection (a) shall not include for-profit entities, either directly or through a subcontract or subgrant.

"(d)(1) In order to receive a grant or contract under subsection (a) an entity shall submit an application to the Secretary.

"(2) An application submitted under this subsection shall be in such form, be submitted by such date, and contain such information as the Secretary shall require.

"(3) Applications submitted under this subsection shall—

"(A) be jointly submitted by at least two eligible applicants with the express purpose of assisting individuals in academic institutions in establishing long-term collaborative relationships with health care providers in rural areas;

"(B) designate a rural health care agency or agencies for clinical treatment or training, including hospitals, community health centers, migrant health centers, rural health clinics, community mental health centers, long-term care facilities, facilities operated by the Indian Health Service or an Indian tribe or tribal organization or Indian organization under a contract with the Indian Health Service under the Indian Self-Determination Act, or Native Hawaiian health centers; and

"(C) provide any additional information required by the Secretary.

Contracts.

"(e)(1) The Secretary shall enter into a contract to conduct a study of manpower training needs in rural areas, with attention focused on the supply of health professionals and whether such supply is adequate to meet the demands for health care services in rural communities.

"(2)(A) The study conducted under paragraph (1) shall include statistics and projections on—

Health care professionals.

"(i) the supply of health care practitioners in rural areas; and

Aged persons.

"(ii) suggested methods of improving access to health care services in rural areas.

The study shall pay particular attention to the needs of the elderly in rural areas.

"(B) The study conducted under paragraph (1) shall evaluate existing models for health care training and service delivery and propose innovative alternative models to enhance the quality and availability of health care services in rural areas and to increase the retention of health professionals in rural areas.

"LIMITATION ON CONTRACT AUTHORITY

"SEC. 508. The authority of the Secretary to enter into contracts under this title shall be to the extent, and in an amount, provided for in appropriation Acts.". 25 USC 1658.

URBAN INDIAN ORGANIZATION

SEC. 502. Subsection (h) of section 4 (25 U.S.C. 1603(h)) is amended by inserting "urban" after "governed by an".

TITLE VI—ORGANIZATIONAL IMPROVEMENTS

ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE

SEC. 601. (a) Title VI (25 U.S.C. 1661) is amended to read as follows:

"TITLE VI—ORGANIZATIONAL IMPROVEMENTS

"ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE

"SEC. 601. (a) In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, as are or may be hereafter provided by Federal statute or treaties, there is established within the Public Health Service of the Department of Health and Human Services the Indian Health Service. The Indian Health Service shall be administered by a Director, who shall be appointed by the Secretary. The Director of the Indian Health Service shall report to the Secretary through the Assistant Secretary for Health of the Department of Health and Human Services. 25 USC 1661. Reports.

"(b) The Indian Health Service shall be an agency within the Public Health Service of the Department of Health and Human Services, and shall not be an office, component, or unit of any other agency of the Department.

"(c) The Secretary shall carry out through the Director of the Indian Health Service— 102 STAT. 4825

"(1) all functions which were, on the day before the date of enactment of the Indian Health Care Amendments of 1988, carried out by or under the direction of the individual serving as Director of the Indian Health Service on such day;

"(2) all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians; and

"(3) all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including (but not limited to) programs under—

"(A) this Act;

"(B) the Act of November 2, 1921 (25 U.S.C. 13);

"(C) the Act of August 5, 1954 (42 U.S.C. 2001, et seq.);

"(D) the Act of August 16, 1957 (25 U.S.C. 2005, et seq.); and

"(E) the Indian Self-Determination Act (25 U.S.C. 450f, et seq.).

"(d)(1) The Secretary, acting through the Director of the Indian Health Service, shall have the authority—

"(A) except to the extent provided in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5, United States Code;

"(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

"(C) to manage, expend, and obligate all funds appropriate for the Service.

"(2) Notwithstanding any other law, the provisions of section 12 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 472), shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a).

"AUTOMATED MANAGEMENT INFORMATION SYSTEM

25 USC 1662.

"SEC. 602. (a)(1) The Secretary shall establish an automated management information system for the Service.

"(2) The information system established under paragraph (1) shall include—

"(A) a financial management system,

"(B) a patient care information system for each area served by the Service,

"(C) a privacy component that protects the privacy of patient information held by, or on behalf of, the Service, and

"(D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each area office of the Service.

Reports.

"(3) By no later than September 30, 1989, the Secretary shall submit a report to Congress setting forth—

"(A) the activities which have been undertaken to establish an automated management information system,

"(B) the activities, if any, which remain to be undertaken to complete the implementation of an automated management information system, and

102 STAT. 4826

"(C) the amount of funds which will be needed to complete the implementation of a management information system in the succeeding fiscal years.

"(b)(1) The Secretary shall provide each Indian tribe and tribal organization that provides health services under a contract entered into with the Service under the Indian Self-Determination Act automated management information systems which—

"(A) meet the management information needs of such Indian tribe or tribal organization with respect to the treatment by the Indian tribe or tribal organization of patients of the Service, and

"(B) meet the management information needs of the Service.

"(2) The Secretary shall reimburse each Indian tribe or tribal organization for the part of the cost of the operation of a system provided under paragraph (1) which is attributable to the treatment by such Indian tribe or tribal organization of patients of the Service.

California.

"(3) The Secretary shall provide systems under paragraph (1) to Indian tribes and tribal organizations providing health services in California by no later than September 30, 1990.

"(c) Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.".

25 USC 1661 note.

(b) All personnel, records, equipment, facilities, and interests in property that are administered by the Indian Health Service on the day before the date on which the amendments made by this section take effect shall be transferred to the Indian Health Service established by the amendment made by subsection (a) of this section. All transfers must be accomplished within 9 months of the date of enactment of this section. The Secretary is authorized to waive the Indian preference laws on a case-by-case basis for temporary transfers involved in implementing this section during such 9-month period.

Effective dates. 25 USC 1661 note.

(c)(1) Except as provided in paragraph (2), section 601 of the Indian Health Care Improvement Act added by subsection (a) of this section shall take effect 9 months from the date of the enactment of this section.

(2) Notwithstanding subsections (b) and (c)(1), any action which carries out such section 601 that is taken by the Secretary before the

effective date of such section 601 shall be effective beginning on the date such action was taken.

(d) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director, Indian Health Service, Department of Health and Human Services.".

TITLE VII—MISCELLANEOUS PROVISIONS

LEASING AND OTHER CONTRACTS

SEC. 701. Section 704 (25 U.S.C. 1674) is amended—

(1) by striking out "Notwithstanding", and inserting in lieu thereof "(a) Notwithstanding", and

(2) by adding at the end thereof the following new subsection:

"(b) The Secretary may enter into leases, contracts, and other legal agreements with Indian tribes or tribal organizations which hold—

"(1) title to;

"(2) a leasehold interest in; or

"(3) a beneficial interest in (where title is held by the United States in trust for the benefit of a tribe);

facilities used for the administration and delivery of health services by the Service or by programs operated by Indian tribes or tribal organizations to compensate such Indian tribes or tribal organizations for costs associated with the use of such facilities for such purposes. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable.".

102 STAT. 4827

ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA

SEC. 702. (a) Subsection (a) of section 708 (25 U.S.C. 1678(a)) is amended—

(1) by striking out "1984" and inserting in lieu thereof "1991", and

(2) by striking out "Indians in such State" and inserting in lieu thereof "members of federally recognized Indian tribes of Arizona".

(b) Section 708 (25 U.S.C. 1678(c)) is amended by striking out subsection (c).

ELIGIBILITY OF CALIFORNIA INDIANS

SEC. 703. Section 709 (25 U.S.C. 1679) is amended to read as follows:

"ELIGIBILITY OF CALIFORNIA INDIANS

"SEC. 709. (a)(1) In order to provide the Congress with sufficient data to determine which Indians in the State of California should be eligible for health services provided by the Service, the Secretary shall, by no later than the date that is 3 years after the date of enactment of the Indian Health Care Amendments of 1988, prepare and submit to the Congress a report which sets forth— Reports.

"(A) a determination by the Secretary of the number of Indians described in subsection (b)(2), and the number of Indians described in subsection (b)(3), who are not members of an Indian tribe recognized by the Federal Government,

"(B) the geographic location of such Indians,

"(C) the Indian tribes of which such Indians are members,

"(D) an assessment of the current health status, and health care needs, of such Indians, and

"(E) an assessment of the actual availability and accessibility of alternative resources for the health care of such Indians that such Indians would have to rely on if the Service did not provide for the health care of such Indians.

"(2) The report required under paragraph (1) shall be prepared by the Secretary—

"(A) in consultation with the Secretary of the Interior, and

"(B) with the assistance of the tribal health programs providing services to the Indians described in paragraph (2) or (3) of subsection (b) who are not members of any Indian tribe recognized by the Federal Government.

"(b) Until such time as any subsequent law may otherwise provide, the following California Indians shall be eligible for health services provided by the Service:

102 STAT. 4828

"(1) Any member of a federally recognized Indian tribe.

"(2) Any descendant of an Indian who was residing in California on June 1, 1852, but only if such descendant—

"(A) is living in California,

"(B) is a member of the Indian community served by a local program of the Service, and

"(C) is regarded as an Indian by the community in which such descendant lives.

"(3) Any Indian who holds trust interests in public domain, national forest, or Indian reservation allotments in California.

"(4) Any Indian in California who is listed on the plans for distribution of the assets of California rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

"(c) Nothing in this section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.".

CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA

SEC. 704. Section .710 (25 U.S.C. 1680) is amended to read as follows:

"CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA

"SEC. 710. The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to Indians in such State.".

CONTRACT HEALTH FACILITIES

SEC. 705. Title VII is amended by adding at the end thereof the following new section:

"CONTRACT HEALTH FACILITIES

25 USC 1680a.

"SEC. 711. The Service shall provide funds for health care programs and facilities operated by tribes and tribal organizations under contracts with the Service entered into under the Indian Self-Determination Act—

"(1) for the maintenance and repair of clinics owned or leased by such tribes or tribal organizations,

"(2) for employee training,

"(3) for cost-of-living increases for employees, and

"(4) for any other expenses relating to the provision of health services,

on the same basis as such funds are provided to programs and facilities operated directly by the Service.".

NATIONAL HEALTH SERVICE CORPS

SEC. 706. Title VII, as amended by section 705 of this Act, is further amended by adding at the end thereof the following new section:

"NATIONAL HEALTH SERVICE CORPS

102 STAT. 4829

"SEC. 712. The Secretary of Health and Human Services shall not— 25 USC 1680b.

"(1) remove a member of the National Health Service Corps from a health facility operated by the Indian Health Service or by a tribe or tribal organization under contract with the Indian Health Service under the Indian Self-Determination Act, or

"(2) withdraw funding used to support such member,

unless the Secretary, acting through the Service, has ensured that the Indians receiving services from such member will experience no reduction in services.".

HEALTH SERVICES FOR INELIGIBLE PERSONS

SEC. 707. (a) Title VII, as amended by section 706 of this Act, is further amended by adding at the end thereof the following new section:

"HEALTH SERVICES FOR INELIGIBLE PERSONS

"SEC. 713. (a)(1) Any individual who— Children and youth. 25 USC 1680c.

"(A) has not attained 19 years of age,

"(B) is the natural or adopted child, step-child, foster-child, legal ward, or orphan of an eligible Indian, and

"(C) is not otherwise eligible for the health services provided by the Service,

shall be eligible for all health services provided by the Service on the same basis and subject to the same rules that apply to eligible Indians until such individual attains 19 years of age. The existing and potential health needs of all such individuals shall be taken into consideration by the Service in determining the need for, or the allocation of, the health resources of the Service. If such an individual has been determined to be legally incompetent prior to attaining 19 years of age, such individual shall remain eligible for such services until one year after the date such disability has been removed.

"(2) Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all of such spouses are made eligible, as a class, by an appropriate resolution of the governing body of the Indian tribe of the eligible Indian. The health needs of persons made eligible under this paragraph shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.

"(b)(1)(A) The Secretary is authorized to provide health services under this subsection through health facilities operated directly by the Service to individuals who reside within the service area of a service unit and who are not eligible for such health services under any other subsection of this section or under any other provision of law if—

"(i) the Indian tribe (or, in the case of a multi-tribal service area, all the Indian tribes) served by such service unit requests such provision of health services to such individuals, and

"(ii) the Secretary and the Indian tribe or tribes have jointly determined that—

102 STAT. 4830

"(I) the provision of such health services will not result in a denial or diminution of health services to eligible Indians, and

"(II) there is no reasonable alternative health facility or services, within or without the service area of such service unit, available to meet the health needs of such individuals.

"(B) In the case of health facilities operated under a contract entered into under the Indian Self-Determination Act, the governing body of the Indian tribe or tribal organization providing health services under such contract is authorized to determine whether health services should be provided under such contract to individ- Contracts.

uals who are not eligible for such health services under any other subsection of this section or under any other provision of law. In making such determinations, the governing body of the Indian tribe or tribal organization shall take into account the considerations described in subparagraph (A)(ii).

"(2)(A) Persons receiving health services provided by the Service by reason of this subsection shall be liable for payment of such health services under a schedule of charges prescribed by the Secretary which, in the judgment of the Secretary, results in reimbursement in an amount not less than the actual cost of providing the health services. Notwithstanding section 1880(c) of the Social Security Act, section 402(c) of this Act, or any other provision of law, amounts collected under this subsection, including medicare or medicaid reimbursements under titles XVIII and XIX of the Social Security Act, shall be credited to the account of the facility providing the service and shall be used solely for the provision of health services within that facility. Amounts collected under this subsection shall be available for expenditure within such facility for not to exceed one fiscal year after the fiscal year in which collected.

Contracts. State and local governments.

"(B) Health services may be provided by the Secretary through the Service under this subsection to an indigent person who would not be eligible for such health services but for the provisions of paragraph (1) only if an agreement has been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent person.

"(3)(A) In the case of a service area which serves only one Indian tribe, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which the governing body of the Indian tribe revokes its concurrence to the provision of such health services.

"(B) In the case of a multi-tribal service area, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which at least 51 percent of the number of Indian tribes in the service area revoke their concurrence to the provision of such health services.

"(c) The Service may provide health services under this subsection to individuals who are not eligible for health services provided by the Service under any other subsection of this section or under any other provision of law in order to—

"(1) achieve stability in a medical emergency,

Diseases. Public health and safety. Women.

"(2) prevent the spread of a communicable disease or otherwise deal with a public health hazard,

"(3) provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through post partum, or

102 STAT. 4831

"(4) provide care to immediate family members of an eligible person if such care is directly related to the treatment of the eligible person.

"(d) Hospital privileges in health facilities operated and maintained by the Service or operated under a contract entered into under the Indian Self-Determination Act may be extended to non-Service health care practitioners who provide services to persons described in subsection (a) or (b). Such non-Service health care practitioners may be regarded as employees of the Federal Government for purposes of section 1346(b) and chapter 171 of title 28, United States Code (relating to Federal tort claims) only with respect to acts or omissions which occur in the course of providing services to eligible persons as a part of the conditions under which such hospital privileges are extended.

"(e) For purposes of this section, the term 'eligible Indian' means any Indian who is eligible for health services provided by the Service without regard to the provisions of this section.".

INFANT AND MATERNAL MORTALITY; FETAL ALCOHOL SYNDROME

SEC. 708. Title VII, as amended by section 707 of this Act, is further amended by adding at the end thereof the following new section:

"INFANT AND MATERNAL MORTALITY; FETAL ALCOHOL SYNDROME

25 USC 1680d.

"SEC. 714. (a) By no later than January 1, 1990, the Secretary shall develop and begin implementation of a plan to achieve the following objectives by January 1, 1994:

"(1) reduction of the rate of Indian infant mortality in each area office of the Service to the lower of—

"(A) twelve deaths per one thousand live births, or

"(B) the rate of infant mortality applicable to the United States population as a whole;

"(2) reduction of the rate of maternal mortality in each area office of the Service to the lower of—

"(A) five deaths per one hundred thousand live births, or

"(B) the rate of maternal mortality applicable to the United States population as a whole; and

"(3) reduction of the rate of fetal alcohol syndrome among Indians served by, or on behalf of, the Service to one per one thousand live births.

President of U.S.

"(b) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each fiscal year a separate statement which specifies the total amount obligated or expended in the most recently completed fiscal year to achieve each of the objectives described in subsection (a).".

CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA

SEC. 709. Title VII, as amended by section 708 of this Act, is further amended by adding at the end thereof the following new section:

102 STAT. 4832

"CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA

North Dakota.
Montana.
25 USC 1680e.

"SEC. 715. (a) The Secretary, acting through the Service, is directed to provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties in the State of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana.

"(b) Nothing in this section may be construed as expanding the eligibility of members of the Turtle Mountain Band of Chippewa Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.".

INDIAN HEALTH SERVICE AND VETERANS' ADMINISTRATION HEALTH FACILITIES AND SERVICES SHARING

SEC. 710. Title VII, as amended by section 709 of this Act, is further amended by adding at the end thereof the following new section:

"INDIAN HEALTH SERVICE AND VETERANS' ADMINISTRATION HEALTH FACILITIES AND SERVICES SHARING

Reports.
25 USC 1680f.

"SEC. 716. (a) The Secretary shall examine the feasibility of entering into an arrangement for the sharing of medical facilities and services between the Indian Health Service and the Veterans' Administration and shall, in accordance with subsection (b), prepare a report on the feasibility of such an arrangement and submit such report to the Congress by no later than September 30, 1990.

"(b) The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38, United States Code, which would impair—

"(1) the priority access of any Indian to health care services provided through the Indian Health Service;

"(2) the quality of health care services provided to any Indian through the Indian Health Service;

"(3) the priority access of any veteran to health care services provided by the Veterans' Administration;

"(4) the quality of health care services provided to any veteran by the Veterans' Administration;

"(5) the eligibility of any Indian to receive health services through the Indian Health Service; or

"(6) the eligibility of any Indian who is a veteran to receive health services through the Veterans' Administration.

"(c)(1) Within 30 days after the date of enactment of this section, the Director of the Indian Health Service and the Administrator of Veterans' Affairs are authorized and directed to implement an agreement under which—

Utah.

"(A) individuals in the vicinity of Roosevelt, Utah, who are eligible for health care from the Veterans' Administration could obtain health care services at the facilities of the Indian Health Service located at Fort Duchesne, Utah; and

"(B) individuals eligible for health care from the Indian Health Service at Fort Duchesne, Utah, could obtain health care services at the Veterans' Administration medical center located in Salt Lake City, Utah.

Reports.

"(2) Not later than 2 years after the date of enactment of this section, the Secretary and the Administrator of Veterans' Affairs shall jointly submit a report to the Congress on the health care services provided as a result of paragraph (1).

102 STAT. 4833

"(d) Nothing in this section may be construed as creating any right of a veteran to obtain health services from the Indian Health Service except as provided in an agreement under subsection (c).".

REALLOCATION OF BASE RESOURCES

SEC. 711. Title VII, as amended by section 710 of this Act, is further amended by adding at the end thereof the following new section:

"REALLOCATION OF BASE RESOURCES

Reports.
25 USC 1680g.

"SEC. 717. (a) Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a service unit may be implemented only after the Secretary has submitted to the Congress a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects.

"(b) Subsection (a) shall not apply if the total amount appropriated to the Service for a fiscal year is less than the amount appropriated to the Service for previous fiscal year.".

PROVISION OF SERVICES IN MONTANA

SEC. 712. (a) The Secretary of Health and Human Services, acting through the Indian Health Service, shall provide services and benefits for Indians in Montana in a manner consistent with the decision of the United States Court of Appeals for the Ninth Circuit in McNabb for McNabb v. Bowen, 829 F.2d 787 (9th Cir. 1987).

(b) The provisions of subsection (a) shall not be construed to be an expression of the sense of the Congress on the application of the decision described in subsection (a) with respect to the provision of services or benefits for Indians living in any State other than Montana.

DEMONSTRATION PROJECTS FOR TRIBAL MANAGEMENT OF HEALTH CARE SERVICES

SEC. 713. Title VII, as amended by section 711 of this Act, is amended by adding at the end thereof the following new section:

"DEMONSTRATION PROJECTS FOR TRIBAL MANAGEMENT OF HEALTH CARE SERVICES

"SEC. 718. (a)(1) The Secretary, acting through the Service, shall make grants to Indian tribes to establish demonstration projects under which the Indian tribe will develop and test a phased approach to assumption by the Indian tribe of the health care delivery system of the Service for members of the Indian tribe living on or near the reservations of the Indian tribe through the use of Service, tribal, and private sector resources. Grants. 25 USC 1680h.

"(2) A grant may be awarded to an Indian tribe under paragraph (1) only if the Secretary determines that the Indian tribe has the administrative and financial capabilities necessary to conduct a demonstration project described in paragraph (1).

102 STAT. 4834

"(b) During the period in which a demonstration project established under subsection (a) is being conducted by an Indian tribe, the Secretary shall award all health care contracts, including community, behavioral, and preventive health care contracts, to the Indian tribe in the form of a single grant to which the regulations prescribed under part A of title XIX of the Public Health Service Act (as modified as necessary by any agreement entered into between the Secretary and the Indian tribe to achieve the purposes of the demonstration project established under subsection (a)) shall apply.

"(c) The Secretary may waive such provisions of Federal procurement law as are necessary to enable any Indian tribe to develop and test administrative systems under the demonstration project established under subsection (a), but only if such waiver does not diminish or endanger the delivery of health care services to Indians.

"(d)(1) The demonstration project established under subsection (a) shall terminate on September 30, 1993.

"(2) By no later than September 30, 1994, the Secretary shall evaluate the performance of each Indian tribe that has participated in a demonstration project established under subsection (a) and shall submit to the Congress a report on such evaluations and demonstration projects. Reports.

"(e) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

HEALTH CARE FOR RURAL AREAS

SEC. 714. Title VII of the Public Health Service Act is amended by adding at the end thereof the following:

"PART I—HEALTH CARE FOR RURAL AREAS

"HEALTH CARE FOR RURAL AREAS

"SEC. 799A. (a) The Secretary is authorized to make grants to, or enter into contracts with, any eligible applicant to help such applicant fund authorized activities under an application and approved under subsection (d). 42 USC 295j.

"(b)(1) Amounts provided under subsection (a) shall be used by the recipients to fund interdisciplinary projects designed to use new and innovative methods and models to—

"(A) train health care practitioners to provide services in rural areas;

"(B) provide access to cost-effective, comprehensive health care to individuals residing in rural areas;

"(C) enhance the amount of research conducted concerning health care delivery in rural areas; and

"(D) increase the recruitment and retention of health care

organization and is authorized to enter into a contract under section 503 with another urban Indian organization which is situated in the same urban center as the urban Indian organization whose contract is not renewed under this section.

"(d) In determining whether to renew a contract with an urban Indian organization under section 503 which has completed performance of a contract under section 504, the Secretary shall review the records of the urban Indian organization, the reports submitted under section 507, and, in the case of a renewal of a contract under section 503, shall consider the results of the onsite evaluations conducted under subsection (b).

"OTHER CONTRACT REQUIREMENTS

25 USC 1656.

"SEC. 506. (a) Contracts with urban Indian organizations entered into pursuant to this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (40 U.S.C. 270a, et seq.).

"(b) Payments under any contracts pursuant to this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title.

"(c) Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract entered into by the Secretary with such organization under this title as necessary to carry out the purposes of this title.

"(d) In connection with any contract entered into pursuant to this title, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract, existing facilities owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for the use and maintenance of such facilities.

"(e) Contracts with urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts by such organizations.

"(f) Urban Indians, as defined in section 4(f) of this Act, shall be eligible for health care or referral services provided pursuant to this title.

"REPORTS AND RECORDS

25 USC 1657.

"SEC. 507. (a) For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract entered into pursuant to this title, such organization shall submit to the Secretary a quarterly report including—

102 STAT. 4824

"(1) in the case of a contract under section 503, information gathered pursuant to clauses (10) and (11) of subsection (a) of such section;

"(2) information on activities conducted by the organization pursuant to the contract;

"(3) an accounting of the amounts and purposes for which Federal funds were expended; and

"(4) such other information as the Secretary may request.

"(b) The reports and records of the urban Indian organization with respect to a contract under this title shall be subject to audit by the Secretary and the Comptroller General of the United States.

"(c) The Secretary shall allow as a cost of any contract entered into under section 503 the cost of an annual private audit conducted by a certified public accountant.

"(3) The Secretary shall evaluate the effectiveness of the health care training and service delivery models developed with funds made available under this section and compare such models with programs designed to increase the availability of health care providers in rural areas, including the National Health Service Corps program authorized by subpart II of part D of the Public Health Service Act (42 U.S.C. 254d et seq.) and the area health education center program authorized under section 781 of such Act (42 U.S.C. 295g-1). 102 STAT. 4836

"(4) Not later than 18 months after the date of the signing of the contract for the health care study under paragraph (1), the Secretary shall submit to the appropriate committees of the Congress a report that describes the results of the study conducted under paragraph (1).

"(f)(1) Each application for a grant or contract under this section shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application.

"(2) The Secretary shall establish such peer review groups as may be necessary to carry out paragraph (1). The Secretary shall make appointments to the peer review groups from among appropriately qualified persons who are not officers or employees of the United States.

"(3) With respect to applications referred to in paragraph (1), a peer review group established pursuant to paragraph (2) shall report its findings and recommendations to the Secretary. The Secretary may not approve such an application unless a peer review group has recommended the application for approval. Reports.

"(4) This paragraph shall be carried out by the Secretary, acting through Health Resources and Services Administration.

"(g) For the purposes of this section, the term 'rural area' includes a frontier area, which is an area in which the population density is less than 7 individuals per square mile.

"(h)(1) There are authorized to be appropriated to carry out the provisions of this section, other than subsection (e), $5,000,000 for fiscal year 1989.

"(2) There are authorized to be appropriated $1,000,000 for fiscal year 1989 to carry out subsection (e).

"(g) This section shall cease to be effective on October 1, 1989.". Termination date.

CHILD SEXUAL ABUSE TREATMENT PROGRAMS

SEC. 715. Title VII, as amended by section 713 of this Act, is amended by adding at the end thereof the following new section:

"CHILD SEXUAL ABUSE TREATMENT PROGRAMS

"SEC. 719. (a) The Secretary and the Secretary of the Interior shall, for each of the fiscal years 1989, 1990, and 1991, continue to provide through the Hopi Tribe and the Asiniboine and Sioux Tribes of the Fort Peck Reservation the demonstration programs involving treatment for child sexual abuse that were conducted during fiscal year 1988 through such tribes. 25 USC 1680i.

"(b) There are authorized to be appropriated for each of the fiscal years 1989, 1990, and 1991 such sums as may be necessary to carry out the provisions of this section.". 102 STAT. 4837

PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT FOR SAN JUAN PUEBLO, NEW MEXICO

SEC. 716. Title VII, as amended by section 715, is further amended by adding at the end thereof the following new section:

"PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT FOR SAN JUAN PUEBLO, NEW MEXICO

"SEC. 720. (a) The Secretary, through the Service, shall make grants to the Eight Northern Indian Pueblos Council, San Juan Grants. 25 USC 1680j.

Pueblo, New Mexico, for the purpose of providing substance abuse treatment services to Indians in need of such services.

"(b) There are authorized to be appropriated to carry out this section $250,000 for each of the fiscal years 1990 and 1991.".

STUDY WITH RESPECT TO NUCLEAR RESOURCE DEVELOPMENT HEALTH HAZARDS

25 USC 1677 note.

SEC. 717. (a) The Secretary of Health and Human Services (acting through the Indian Health Service), the Secretary of the Interior (acting through the Bureau of Indian Affairs), and the Secretary of Energy shall jointly conduct a study for the purpose of determining—

(1) the number of active nuclear resource development sites on Indian lands in the United States;

(2) the Federal agencies that carry out Federal responsibilities with respect to each such site;

(3) the health hazards that exist as a result of such sites;

(4) the remedial actions which have been undertaken with respect to such health hazards;

(5) remedial actions that are needed with respect to such health hazards; and

(6) the amount of funds that would be necessary each year to implement and maintain such needed remedial actions and the date by which the remedial actions would be implemented if sufficient funds were to provide for the remedial actions.

Reports.

(b) By no later than the date that is 2 years after the date of enactment of this Act, a report shall be submitted to the Congress describing the findings and conclusions made as a result of carrying out the study required in subsection (a).

LIMITATION ON USE OF FUNDS APPROPRIATED TO THE INDIAN HEALTH SERVICE

SEC. 718. Section 706 (25 U.S.C. 1676) is amended to read as follows:

"LIMITATION ON USE OF FUNDS APPROPRIATED TO THE INDIAN HEALTH SERVICE

Abortion.

"SEC. 706. Any limitation on the use of funds contained in an Act providing appropriations for the Department of Health and Human Services for a period with respect to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in an Act providing appropriations for the Indian Health Service.".

102 STAT. 4838

SEC. 719. (a) During the period of the moratorium imposed by Public Law 100–446 on implementation of the final rule published in the Federal Register on September 16, 1987, by the Health Resources and Services Administration of the Public Health Service, relating to eligibility for the health care services of the Indian Health Service, the Indian Health Service shall provide services pursuant to the criteria for eligibility for such services that were in effect on September 15, 1987, subject to the provisions of section 709 of the Indian Health Care Improvement Act, as amended by this Act.

Contracts.

(b) The Secretary of Health and Human Services, acting through the Indian Health Service, shall, by contract or any other means, conduct a study to determine the impact of the final rule described in subsection (a) and of any other proposed rules which would change the eligibility criteria for medical services provided by the Indian Health Service.

(c) The study conducted under subsection (b) shall include—

(1) full participation and consultation with Indian and Alaskan Native tribal governments and representatives of urban Indian health care programs;

(2) statistics for each of the service areas of the Indian Health Service on the number of Indians who are currently eligible for the services of the Indian Health Service;

(3) statistics for each of the service areas of the Indian Health Service on the number of Indians who would be eligible for such services if the final rule described in subsection (a), or any alternative rule changing eligibility, were implemented;

(4) consideration of the financial impact of such final rule or any other proposed rule on the contract health care budget and on the clinical services budget of the Indian Health Service;

(5) consideration of the health status, cultural, social, and economic impact on Indian reservations and urban Indian populations of such final rule or any other rule changing the eligibility criteria;

(6) consideration of the alternatives, if any, that would be available to those Indians who would not be eligible for such services by reason of any such final rule; and

(7) consideration of the program changes that the Indian Health Service would be required to make if the eligibility requirements for such services that were in effect on September 15, 1987, were modified.

(d) The Secretary of Health and Human Services shall submit to the Congress a report on the study required under subsection (b). Reports.

(e) Before submitting to Congress the report on the study required under subsection (b), the Secretary of Health and Human Services shall provide Indian tribes, Alaska Native villages and urban Indian health care programs an opportunity to comment on the report and shall incorporate the comments of such Indian groups into the report.

(f) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section.

102 STAT. 4839

TITLE VIII—SEVERABILITY PROVISION

SEC. 801. If any provision of this Act, any amendment made by this Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby. 25 USC 1601 note.

Approved November 23, 1988.

LEGISLATIVE HISTORY—H.R. 5261 (S. 129):

HOUSE REPORTS: No. 100-1075 (Comm. of Conference).
SENATE REPORTS: No. 100-508 accompanying S. 129 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 13, considered and passed House.
Sept. 28, considered and passed Senate, amended.
Oct. 12, House agreed to conference report.
Oct. 14, Senate agreed to conference report.

Public Law 100-480
100th Congress

102 STAT. 2328

An Act

Pursuant to the report ordered by Public Law 99-229 which directed the Architect of the Capitol and the Secretary of Transportation to undertake a study of the needs of the Federal judiciary for additional Federal office space, to authorize the Architect of the Capitol to contract for the design and construction of a building adjacent to Union Station in the District of Columbia to house agencies offices in the judicial branch of the United States, and for other purposes.

Oct. 7, 1988
[S. 1934]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Judiciary Office Building Development Act.
40 USC 1201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judiciary Office Building Development Act".

40 USC 1201.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings and declarations:

(1) Space for consolidation of activities of the Administrative Office of the United States Courts and other offices of the judicial branch of Government and for providing office space for retired justices of the Supreme Court is necessary and should be located in the vicinity of the Supreme Court building.

(2) Orderly development of the Capitol Grounds should be consistent with the Master Plan for the United States Capitol, dated 1981.

(3) The cost of leasing space by the judicial branch of the Government is high.

(4) Development of squares 721 and 722 in the District of Columbia is necessary to achieve the objectives of the Union Station Redevelopment Act and the revitalization of the Union Station area.

(5) The Judicial Conference of the United States endorsed by resolution the construction of an office building on the Capitol Grounds to house the Administrative Office of the United States Courts and related judicial branch offices.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To implement the report submitted to Congress by the Architect and the Secretary of Transportation under the Act of December 28, 1985 (99 Stat. 1749-1750), relating to the needs of the Federal judiciary for additional Federal office space.

(2) To authorize the Architect to acquire by lease space primarily for use by the judicial branch of the Government by entering into contracts for the design and construction of a building adjacent to Union Station.

(3) To ensure that the design and construction of such building will insofar as practicable result in a building which is efficient and economical and which provides visual testimony to the dignity, enterprise, vigor, and stability of the Federal Government.

40 USC 1202.
102 STAT. 2329

SEC. 3. CONSTRUCTION OF BUILDING.

(a) SELECTION PROCESS.—

(1) GENERAL RULE.—The Architect, under the direction of the Commission and in accordance with such policies and procedures as the Architect shall establish, shall select in accordance with provision of this subsection a person to develop squares 721 and 722 (bounded by F Street, 2nd Street, Massachusetts Avenue, and Columbia Plaza, Northeast) in the District of Columbia.

(2) REVISION OF PROPOSALS.—Not later than 90 days after the date of the enactment of this Act, each of the 5 persons who submitted a proposal for development of squares 721 and 722 under the study conducted under the Act of December 28, 1985 (99 Stat. 1749–1750), which is one of the 5 proposals under consideration by the Architect may revise such proposal to take into account the objectives of this Act and resubmit such proposal to the Architect.

(3) SELECTION OF REVISED PROPOSAL.—Subject to paragraph (4), not later than 120 days after the date of the enactment of this Act, the Architect shall select one of the persons resubmitting a proposal under paragraph (2) to develop squares 721 and 722 in the District of Columbia.

(4) NONSUBMISSION OF REVISED PROPOSALS; PROTECTION OF UNITED STATES INTEREST.—If no proposal is resubmitted to the Architect under paragraph (2) in the 90-day period or if the Architect determines that none of the proposals resubmitted under paragraph (2) is in the best interests of the United States, the Architect shall conduct a competition for selection of a person to develop squares 721 and 722 in the District of Columbia. Such competition shall be conducted in accordance with such policies and procedures as the Architect may establish for a development competition.

(5) PURPOSE OF DEVELOPMENT.—The purpose of development of squares 721 and 722 is to provide office space for the Administrative Office of the United States Courts, the Federal Judicial Center, the Judicial Panel of Multidistrict Litigation, and the United States Sentencing Commission, chambers for retired justices of the Supreme Court, and other related offices of the judicial branch of the United States and other persons (including governmental entities).

(6) APPROVAL OF CHIEF JUSTICE.—All final decisions regarding architectural design of the building to be constructed under this Act shall be subject to the approval of the Chief Justice of the United States.

(7) PROHIBITION ON PAYMENTS FOR BIDS AND DESIGNS.—The Architect may not make any payment to any person for any bid or design proposal under any competition conducted under this subsection.

(8) LIMITATIONS.—

(A) SIZE OF BUILDING.—The building (excluding parking facilities) to be constructed under this Act may not exceed 520,000 gross square feet in size above the level of Columbia Plaza in the District of Columbia.

(B) HEIGHT OF BUILDING.—The height of the building and other improvements shall be compatible with the height of surrounding Government and historic buildings and conform to the provisions of the Act of June 1, 1910, commonly known as the Building Height Act of 1910 (36 Stat. 452).

102 STAT. 2330

(C) DESIGN.—The building and other improvements shall be designed in harmony with historical and Government buildings in the vicinity, shall reflect the symbolic importance and historic character of the United States Capitol and other buildings on the United States Capitol grounds, and shall represent the dignity and stability of the Federal Government.

(b) DEVELOPMENT AGREEMENT.—

(1) AUTHORITY TO ENTER.—The Architect may enter into with the person selected to develop squares 721 and 722 under subsection (a) an agreement for the development of such squares. Except as otherwise provided in this Act, such agreement shall provide for development of such squares substantially in accordance with (A) alternative D of the report to Congress entitled "The Study of Alternatives for the Construction of an Office Building(s) for the Administrative Office of the United States Courts", submitted to Congress on August 10, 1987, by the Architect and the Secretary of Transportation, and (B) the Master Plan for the United States Capitol, dated 1981.

(2) CONTENTS.—The development agreement under paragraph (1) shall at a minimum provide for the following:

(A) Except to the extent otherwise provided by this Act, all design, development, and construction costs incurred with respect to the building to be constructed under the agreement will be at no cost to the United States.

(B) Title to squares 721 and 722 will remain in the United States.

(C) Title to the building and other improvements constructed or otherwise made on or to squares 721 and 722 will immediately revert to the United States at the expiration of not more than 30 years from the effective date of the lease agreement entered into under section 4 without payment of any compensation by the United States.

(D) The building and other improvements constructed on or to squares 721 and 722 to be leased to the United States will be in accordance with the provisions of this Act and the lease agreement will contain such terms and conditions as may be prescribed by the Architect to carry out the objectives of this Act.

The agreement shall include a copy of the lease agreement entered into under section 4 by the Architect and the person selected to develop squares 721 and 722.

(c) CHILLED WATER AND STEAM FROM THE CAPITOL POWER PLANT.—

(1) AUTHORITY FOR HOOKUP TO CAPITOL POWER PLANT.—The building to be constructed under this Act may be connected to the Capitol Power Plant through construction of extensions to the chilled water and steam lines which serve Union Station. If such building is to be connected to the Capitol Power Plant, the agreement under subsection (b) between the Architect and the person selected to construct such building shall provide that such person will bear all costs associated with the installation of chilled water and steam lines to the building and shall reimburse the Union Station Redevelopment Corporation for an equitable share of the costs incurred by the Union Station Redevelopment Corporation in the construction of extensions of the chilled water and steam lines from such Plant to Union Station.

102 STAT. 2331

(2) FURNISHING OF CHILLED WATER AND STEAM FROM CAPITOL POWER PLANT.—If the building to be constructed under this Act is connected with the Capitol Power Plant pursuant to paragraph (1), the Architect shall furnish, on a reimbursable basis, chilled water and steam from such Plant to such building.

(d) CONSTRUCTION STANDARDS AND INSPECTIONS.—The building and other improvements constructed under this Act shall meet all standards applicable to construction of a Federal building. During construction, the Architect shall conduct periodic inspections of such building for the purpose of assuring that such standards are being met. Such building shall not be subject to any law of the District of Columbia relating to building codes, permits, or inspection (including any such law enacted by Congress).

(e) APPLICABILITY OF CERTAIN LAWS.—The building and other improvements constructed under this Act shall not be subject to any law of the District of Columbia relating to real estate and personal

Taxes.

SEC. 6. ALLOCATION OF SPACE. 40 USC 1205.

(a) GOVERNMENTAL ENTITIES.—

(1) JUDICIAL BRANCH.—Subject to the provisions of this section, the Architect shall make available, on a reimbursable basis, all space in the building and other improvements constructed under this Act to the judicial branch of the United States substantially in accordance with the report referred to in section 3(b)(1).

(2) OTHER.—Any space in the building and other improvements constructed under this Act which the Chief Justice determines is not needed by the judicial branch of the United States may be made available by the Architect, on a reimbursable basis, to Federal governmental entities which are not part of the judicial branch and which are not staff of Members of Congress or Congressional Committees.

(3) TERMS AND CONDITIONS.—Space made available under this subsection shall be subject to such terms and conditions as are necessary to carry out the objectives of this Act.

(4) REIMBURSEMENT RATE.—All space made available by the Architect under this subsection shall be subject to reimbursement at the rate established under section 4(b)(2) plus such amount as the Architect and—

(A) in the case of the judicial branch, the Director of the Administrative Office of the United States Courts, or

(B) in the case of any governmental entity not a part of the judicial branch, such entity,

determine is necessary to pay on an annual basis for the cost of administering the building and other improvements (including costs of operation, maintenance, rehabilitation, security, and structural, mechanical, and domestic care) which are attributable to such space. 102 STAT. 2333

(5) MEETING JUDICIAL BRANCH NEEDS.—

(A) IN GENERAL.—Whenever the Chief Justice notifies the Architect that the judicial branch of the United States requires additional space in the building and other improvements constructed under this Act, the Architect shall accommodate those requirements (i) in the case of space made available to the Administrator of General Services, by a date agreed upon under subparagraph (B), or (ii) in the case of space made available to any person or governmental entity (other than the General Services Administration), within 90 days after the date of such notification.

(B) SPACE AVAILABLE TO GSA.—In any case in which such additional space is provided from space in the building made available to the Administrator of General Services, the space shall be vacated expeditiously by not later than a date mutually agreed upon by the Chief Justice and the Administrator of General Services.

(C) UNOCCUPIED SPACE.—Whenever any space in the building is unoccupied, the Chief Justice shall have a right of first refusal to use such space to meet the needs of the judicial branch in accordance with this subsection.

(6) ASSIGNMENT OF SPACE WITHIN THE JUDICIAL BRANCH.—The Director of the Administrative Office of the United States Courts may assign and reassign space made available to the judicial branch of the United States under this subsection among offices of the judicial branch as the Director deems appropriate.

(b) NONGOVERNMENTAL TENANTS.—

(1) GENERAL RULE.—Any space in the building and other improvements constructed under this Act which the Chief Justice determines is not needed by the judicial branch of the United States shall first be offered to other Federal governmental entities which are not staff of Members of Congress or Congressional Committees; and then, if any space remains, it

may be subleased by the Architect, under the direction of the Commission, to any person.

(2) RENTAL RATE.—All space subleased by the Architect under this subsection shall be subject to reimbursement at a rate which is comparable to prevailing rental rates for similar facilities in the area but not less than the rate established under section 4(b)(2) plus such amount as the Architect and the person subleasing such space agree is necessary to pay on an annual basis for the cost of administering the building (including costs of operation, maintenance, rehabilitation, security, and structural, mechanical, and domestic care) which are attributable to such space.

(3) LIMITATION.—Subleases under this subsection must be compatible with the dignity and functions of the judicial branch offices housed in the building and must not unduly interfere with the activities and operations of the judicial branch agencies housed in the building. The provisions of section 4 of the Act of July 31, 1946 (60 Stat. 718; 40 U.S.C. 193d), and section 451 of the Legislative Reorganization Act of 1970 (84 Stat. 1193; 40 U.S.C. 193m-1) shall not apply to any space in the building and other improvements subleased to a non-Government tenant under this subsection.

102 STAT. 2334

(4) COLLECTION OF RENT.—The Architect shall collect rent for space subleased under this subsection.

(c) DEPOSIT OF RENT AND REIMBURSEMENTS.—All funds received under this subsection (including lease payments and reimbursements) shall be deposited into the account established by section 9.

40 USC 1206.

SEC. 7. COMMISSION FOR JUDICIARY OFFICE BUILDING.

(a) ESTABLISHMENT.—There is established a Commission to be known as the Commission for the Judiciary Office Building.

(b) MEMBERSHIP.—The Commission shall be composed of the following 13 members:

(1) Two individuals appointed by the Chief Justice from among justices of the Supreme Court and other judges of the United States (or their designees).

(2) The members of the House Office Building Commission (or their designees).

(3) The majority leader and minority leader of the Senate (or their designees).

(4) The Chairman and the ranking minority member of the Senate Committee on Rules and Administration (or their designees).

(5) The Chairman and the ranking minority member of the Senate Committee on Environment and Public Works (or their designees).

(6) The Chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives (or their designees).

(c) DUTIES.—The Commission shall be responsible for supervision of design, construction, operation, maintenance, structural, mechanical, and domestic care and security of the building to be constructed under this Act. The Commission shall from time to time prescribe rules and regulations to govern the actions of the Architect under this Act and to govern the use and occupancy of all space in such building.

Regulations.

(d) QUORUM.—Seven members of the Commission shall constitute a quorum.

SEC. 8. REPEAL OF DOT AUTHORITY.

Section 116(a)(2) of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 816(a)(2)), relating to assignment of squares 721 and 722 to the Secretary of Transportation, is repealed.

40 USC 1207.

SEC. 9. FUNDING.

(a) SEPARATE ACCOUNT.—There is established in the Treasury of the United States a separate account. Such account shall include all

amounts deposited therein under section 6(c) and such amounts as may be appropriated thereto but not to exceed $2,000,000. Amounts in the account shall be available to the Architect for paying expenses for structural, mechanical, and domestic care, maintenance, operation, and utilities of the building and other improvements constructed under this Act, for reimbursing the United States Capitol Police for expenses incurred in providing exterior and interior security for the building and other improvements, for making lease payments under section 4, and for necessary personnel (including consultants).

102 STAT. 2335

(b) UNEXPENDED BALANCES OF FUNDS.—The unexpended balance of funds appropriated by the Urgent Supplemental Appropriations Act, 1986 under the heading "Study of Construction of Office Building" (100 Stat. 717) are transferred to the Architect on the date of the enactment of this Act. Such unexpended balance shall be available for design review, construction inspection, contract administration, and such other project related costs under this Act as the Architect may deem appropriate.

SEC. 10. DEFINITIONS.

40 USC 1208.

As used in this Act—

(1) ARCHITECT.—The term "Architect" means the Architect of the Capitol.

(2) CHIEF JUSTICE.—The term "Chief Justice" means the Chief Justice of the United States or his designee; except that in any case in which there is a vacancy of the office of the Chief Justice of the United States, the most senior associate justice of the Supreme Court shall be treated as the Chief Justice of the United States for purposes of this Act until such time as such vacancy is filled.

(3) COMMISSION.—The term "Commission" means the Commission for the Judiciary Office Building established by section 7.

Approved October 7, 1988.

LEGISLATIVE HISTORY—S. 1934:

HOUSE REPORTS: No. 100-884 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 100-358 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 7, considered and passed Senate.
Sept. 20, considered and passed House, amended.
Sept. 23, Senate concurred in House amendment.

Public Law 100-702
100th Congress

102 STAT. 4642

An Act

To amend title 28, United States Code, to make certain improvements with respect to the Federal judiciary, and for other purposes.

Nov. 19, 1988
[H.R. 4807]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Judicial Improvements and Access to Justice Act.

This Act may be cited as the "Judicial Improvements and Access to Justice Act".

SEC. 2. REFERENCE TO TITLE 28, UNITED STATES CODE.

28 USC 1 note.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed as an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

SEC. 3. TABLE OF CONTENTS.

TITLE I—FEDERAL COURTS STUDY COMMITTEE

Sec. 101. Short title.
Sec. 102. Establishment and purposes.
Sec. 103. Membership of the Committee.
Sec. 104. Powers of the Committee.
Sec. 105. Functions and duties.
Sec. 106. Compensation of members.
Sec. 107. Expiration of the Committee.
Sec. 108. Authorization of appropriations.
Sec. 109. Effective date.

TITLE II—FEDERAL JURISDICTION—DIVERSITY REFORM

Sec. 201. Amount in controversy in diversity cases.
Sec. 202. Diversity in cases involving multistate corporations or representative parties.
Sec. 203. Citizenship of permanent resident alien.

TITLE III—FEDERAL JUDICIAL CENTER

Sec. 301. Federal Judicial Center Foundation.
Sec. 302. Authority to implement history program.
Sec. 303. Authority to provide for training for persons outside the judicial branch.
Sec. 304. Appointment and compensation of the Deputy Director of the Center

TITLE IV—RULES ENABLING ACT

Sec. 401. Rules Enabling Act amendments.
Sec. 402. Compilation and review of local rules.
Sec. 403. Rules by certain courts and orders by circuit Judicial Councils and the Judicial Conference.
Sec. 404. Conforming and other technical amendments.
Sec. 405. Tax court rule making not affected.
Sec. 406. Savings provision.
Sec. 407. Effective date.

TITLE V—JURISDICTION OF THE FEDERAL CIRCUIT

Sec. 501. Interlocutory appeals.
Sec. 502. Effective date.

TITLE VI—STATE JUSTICE INSTITUTE AMENDMENTS

Sec. 601. Rule making.
Sec. 602. Civil Service retirement.
Sec. 603. Use of funds under grants and contracts.
Sec. 604. Unit of State or local government matching funds.
Sec. 605. Interim funding.
Sec. 606. Procedures for suspension of funding; restrictions on disclosure of information.
Sec. 607. Authorization of appropriations.

TITLE VII—COURT INTERPRETERS AMENDMENTS

Sec. 701. Short title.
Sec. 702. Authority of the Director.
Sec. 703. Certification of interpreters; other qualified interpreters.
Sec. 704. Lists of interpreters; responsibility for securing services of interpreters.
Sec. 705. Sound recordings.
Sec. 706. Authorization of appropriations; payment for services of interpreters.
Sec. 707. Approval of compensation and expenses.
Sec. 708. Definitions.
Sec. 709. Simultaneous interpretation.
Sec. 710. Technical amendments.
Sec. 711. Impact on existing programs.
Sec. 712. Effective date.

TITLE VIII—JURY SELECTION AND SERVICE

Sec. 801. Excuse of jurors.
Sec. 802. Jury selection plan.
Sec. 803. Master jury wheel.
Sec. 804. Technical amendment.
Sec. 805. Experimental use of new jury selection procedures.

TITLE IX—ARBITRATION

Sec. 901. Arbitration authorization by district courts.
Sec. 902. Model procedures.
Sec. 903. Reports.
Sec. 904. Effect on judicial rule making powers.
Sec. 905. Authorization of appropriations.
Sec. 906. Repeal.
Sec. 907. Effective date.

TITLE X—MISCELLANEOUS PROVISIONS

Sec. 1001. Divisional venue in civil cases.
Sec. 1002. Registration of foreign judgments.
Sec. 1003. Bankruptcy judge, magistrate and law clerk exemption from Federal Leave Act.
Sec. 1004. Cost-of-living adjustment of annuities payable under sections 611 and 627.
Sec. 1005. Military retirement pay for senior or retired judges.
Sec. 1006. Amendments to conform sections 611 and 627 to the Federal Employees' Retirement System Act of 1986.
Sec. 1007. Judicial disqualification amendment.
Sec. 1008. Incentive awards.
Sec. 1009. Waiver of claims for overpayment of judicial pay and allowances.
Sec. 1010. Court security.
Sec. 1011. Travel reimbursement.
Sec. 1012. Claims court fees.
Sec. 1013. Corporate venue.
Sec. 1014. Method of recording.
Sec. 1015. Location of chambers of circuit judges.
Sec. 1016. Improvements in removal procedure.
Sec. 1017. Cost-of-living adjustments for judicial survivors' annuities.
Sec. 1018. Elimination of circuit executive board of certification procedure.
Sec. 1019. Appeals under title 9, United States Code.
Sec. 1020. Miscellaneous technical amendments.
Sec. 1021. Configuration of Florida districts.
Sec. 1022. Service of article III judges on territorial courts.
Sec. 1023. Salaries of United States Claims Court judges.

TITLE I—FEDERAL COURTS STUDY COMMITTEE

Federal Courts Study Act.
28 USC 331 note.

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Courts Study Act".

SEC. 102. ESTABLISHMENT AND PURPOSES.

(a) ESTABLISHMENT.—There is hereby established within the Judicial Conference of the United States, a Federal Courts Study Committee on the future of the Federal judiciary (hereafter referred to as the "Committee").

(b) PURPOSES.—The purposes of the Committee are to—

(1) examine problems and issues currently facing the courts of the United States;

(2) develop a long-range plan for the future of the Federal judiciary, including assessments involving—

(A) alternative methods of dispute resolution;

(B) the structure and administration of the Federal court system;

(C) methods of resolving intracircuit and intercircuit conflicts in the courts of appeals; and

(D) the types of disputes resolved by the Federal courts; and

(3) report to the Judicial Conference of the United States, the President, the Congress, the Conference of Chief Justices, and the State Justice Institute on the revisions, if any, in the laws of the United States which the Committee, based on its study and evaluation, deems advisable. Reports.

SEC. 103. MEMBERSHIP OF THE COMMITTEE.

(a) APPOINTMENTS.—The Committee shall be composed of fifteen members to be appointed by the Chief Justice of the United States, within ten days after the effective date of this title.

(b) SELECTION.—The membership of the Committee shall be selected in such a manner as to be representative of the various interests, needs and concerns which may be affected by the jurisdiction of the Federal courts. The Chief Justice shall designate one of the members of the Committee to serve as Chairman.

(c) TERM OF OFFICE.—The Committee members shall serve at the pleasure of the Chief Justice.

(d) RULES OF PROCEDURE.—Rules of procedure shall be promulgated by vote of a majority of the Committee.

SEC. 104. POWERS OF THE COMMITTEE.

(a) HEARINGS.—The Committee or, on the authorization of the Committee, any subcommittee thereof may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, as the Committee or any such subcommittee may deem advisable.

(b) INFORMATION AND ASSISTANCE.—The Administrative Office of the United States Courts, the Federal Judicial Center, and each department, agency, and instrumentality of the executive branch of the Government, including the National Institute of Justice and independent agencies, shall furnish to the Committee, upon request made by the Chairman, such information and assistance as the
102 STAT. 4645 Committee may reasonably deem necessary to carry out its functions under this title, consistent with other applicable provisions of law governing the release of such information.

(c) PERSONNEL.—(1) Subject to such rules and regulations as may be adopted by the Committee, the Director of the Administrative Office shall furnish to the Committee necessary staff and technical assistance in response to needs specified.

(2) Section 5108(c)(1) of title 5, United States Code, is amended by striking out "15" and inserting in lieu thereof "17".

(d) ADVISORY PANELS.—The Committee is authorized, for the purpose of carrying out its functions and duties pursuant to the provisions of this title, to establish advisory panels consisting of Committee members or members of the public. Such panels shall be established to provide expertise and assistance in specific areas, as the Committee deems necessary.

SEC. 105. FUNCTIONS AND DUTIES.

The Committee shall—

Reports.

(1) make a complete study of the courts of the United States and of the several States and transmit a report to the President, the Chief Justice of the United States, the Congress, the Judicial Conference of the United States, the Conference of Chief Justices, and the State Justice Institute on such study, within fifteen months after the effective date of this title;

(2) recommend revisions to be made to laws of the United States as the Committee, on the basis of such study, deems advisable;

(3) develop a long-range plan for the judicial system; and

(4) make such other recommendations and conclusions it deems advisable.

SEC. 106. COMPENSATION OF MEMBERS.

(a) EMPLOYEES OF THE GOVERNMENT.—A member of the Committee who is an officer or full-time employee of the United States shall receive no additional compensation for his or her services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Committee, not to exceed the maximum amounts authorized under section 456 of title 28.

(b) PRIVATE SECTOR.—A member of the Committee who is from the private sector shall receive $200 per diem for each day (including travel time) during which he or she is engaged in the actual performance of duties vested in the Committee, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, not to exceed the maximum amounts authorized under section 456 of title 28.

SEC. 107. EXPIRATION OF THE COMMITTEE.

The Committee shall cease to exist on the date 60 days after it transmits the report pursuant to section 105.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

To carry out the purposes of this title there are authorized to be appropriated $300,000 for each of the fiscal years 1989 and 1990.

property taxes, special assessments, or other taxes (including any such law enacted by Congress).

40 USC 1203.

SEC. 4. LEASE OF BUILDING BY ARCHITECT OF THE CAPITOL.

(a) ENTRY INTO LEASE AGREEMENT.—Before the development agreement is entered into under section 3, the Architect shall enter into with the person selected to construct the building under this Act an agreement for the lease of such building by the Architect to carry out the objectives of this Act.

(b) TERMS OF LEASE AGREEMENT.—The agreement entered into under this section shall include at a minimum the following terms:

(1) The Architect will lease the building and other improvements for a term not to exceed 30 years from the effective date of such lease agreement.

(2) The rental rate per square foot of occupiable space for all space in the building and other improvements will be in the best interest of the United States and carry out the objectives of this Act, but in no case may the aggregate rental rate for all space in the building and other improvements produce an amount less than the amount necessary to amortize the cost of development of squares 721 and 722 over the term of the lease.

(3) Authority for the Architect to make space available and to sublease space in the building and other improvements in accordance with section 6 of this Act.

(c) ACCOUNTING SYSTEM.—The Architect shall maintain an accounting system for operation and maintenance of the building and other improvements to be constructed under this Act which will permit accurate projections of the dates and the costs of major repairs, improvements, reconstructions, and replacements of such building and improvements and other capital expenditures on such building and improvements.

(d) OBLIGATION OF FUNDS.—Obligation of funds for lease payments under this section may only be made on an annual basis and may only be made from the account established by section 9.

40 USC 1204.

SEC. 5. STRUCTURAL AND MECHANICAL CARE AND SECURITY.

(a) STRUCTURAL AND MECHANICAL CARE.—Upon occupancy by the United States of the building and other improvements constructed under this Act, the structural and mechanical care and maintenance of such building and improvements (including the care and maintenance of the grounds of such building) shall be the responsibility of the Architect, under the direction of the Commission, in the same manner and to the same extent as the structural and mechanical care and maintenance of the United States Supreme Court Building under the Act of May 7, 1934 (48 Stat. 668; 40 U.S.C. 13a), and all other duties and work required for the operation and domestic care of such building and improvements shall be performed by the Architect, under the direction of the Commission.

102 STAT. 2332

(b) SECURITY.—

(1) GENERAL RULE.—The United States Capitol Police shall be responsible for all exterior and interior security of the building and other improvements constructed under this Act.

(2) AUTHORITY OF SUPREME COURT MARSHAL.—Nothing in this Act shall be construed to interfere with the obligation of the Marshal of the Supreme Court of the United States to protect justices, officers, employees, or other personnel of the Supreme Court who may occupy the building and other improvements.

(3) REIMBURSEMENT.—The Architect shall transfer from the account established by section 9 such amounts as may be necessary to reimburse the United States Capitol Police for expenses incurred in providing exterior and interior security under this subsection. The United States Capitol Police may accept amounts transferred by the Architect under this paragraph, and such amounts shall be credited to the appropriation account charged by the United States Capitol Police in executing the performance of security duties.

SEC. 109. EFFECTIVE DATE.

This title shall become effective on January 1, 1989.

102 STAT. 4646

TITLE II—FEDERAL JURISDICTION—DIVERSITY REFORM

SEC. 201. AMOUNT IN CONTROVERSY IN DIVERSITY CASES.

(a) INCREASE IN AMOUNT IN CONTROVERSY TO $50,000.—Subsections (a) and (b) of section 1332 are each amended by striking out "$10,000" and inserting in lieu thereof "$50,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any civil action commenced on or after the 180th day after the date of enactment of this title. 28 USC 1332 note.

SEC. 202. DIVERSITY IN CASES INVOLVING MULTISTATE CORPORATIONS OR REPRESENTATIVE PARTIES.

(a) IN GENERAL.—Section 1332(c) is amended to read as follows:

"(c) For the purposes of this section and section 1441 of this title—

"(1) a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business, except that in any direct action against the insurer of a policy or contract of liability insurance, whether incorporated or unincorporated, to which action the insured is not joined as a party-defendant, such insurer shall be deemed a citizen of the State of which the insured is a citizen, as well as of any State by which the insurer has been incorporated and of the State where it has its principal place of business; and Insurance.

"(2) the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent, and the legal representative of an infant or incompetent shall be deemed to be a citizen only of the same State as the infant or incompetent.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any civil action commenced in or removed to a United States district court on or after the 180th day after the date of enactment of this title. 28 USC 1332 note.

SEC. 203. CITIZENSHIP OF PERMANENT RESIDENT ALIEN.

(a) PERMANENT RESIDENT ALIEN CITIZENSHIP FOR DIVERSITY PURPOSES.—Section 1332(a) is amended by adding at the end thereof the following: "For the purposes of this section, section 1335, and section 1441, an alien admitted to the United States for permanent residence shall be deemed a citizen of the State in which such alien is domiciled.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to claims in civil actions commenced in or removed to the United States district courts on or after the 180th day after the date of enactment of this title. 28 USC 1332 note.

TITLE III—FEDERAL JUDICIAL CENTER

SEC. 301. FEDERAL JUDICIAL CENTER FOUNDATION.

(a) ESTABLISHMENT.—Chapter 42 is amended by adding at the end the following new section:

102 STAT. 4647

"§ 629. Federal Judicial Center Foundation

"(a) There is established a private nonprofit corporation which shall be known as the Federal Judicial Center Foundation (hereafter in this section referred to as the 'Foundation') and which shall be incorporated in the District of Columbia. The purpose of the Foundation shall be to have sole authority to accept and receive gifts of real and personal property and services made for the purpose of aiding Establishment. District of Columbia. Gifts and property. Real property.

or facilitating the work of the Federal Judicial Center. The Foundation shall not accept conditional or otherwise restricted gifts, except gifts that are designated for the support of specific projects previously approved by the Board of the Center may be accepted. The Foundation shall have no authority to administer or otherwise determine the use of gifts accepted under this section.

"(b) The business of the Foundation shall be conducted by a Board that shall have seven members, including a chairman. Three members, including the chairman, shall be appointed by the Chief Justice of the United States, two by the President Pro Tempore of the Senate, and two by the Speaker of the House of Representatives. The term of office of each member of the Board shall be 5 years, except that the initial terms shall be 5 years for the chairman, one member appointed by the President Pro Tempore and one member appointed by the Speaker, 3 years for the other member appointed by the President Pro Tempore and the other member appointed by the Speaker, and two years for the two other members appointed by the Chief Justice. Members of the Board shall serve without compensation but, upon authorization of the Director of the Center, shall be reimbursed by the Federal Judicial Center for actual and necessary expenses incurred in the performance of their official duties. No person who is a Federal or State judge in regular active service or otherwise eligible to perform judicial duties shall be eligible for membership on the Board. The Center shall provide all administrative support and facilities necessary for the operation of the Board.

Gifts and property.

"(c) The Federal Judicial Center is authorized to administer and use gifts received by the Foundation under this section. The gifts shall be used to further the goals of the Center as determined by the Board of the Center.

Gifts and property.

"(d) Gifts of money and proceeds from sales of other property received as gifts shall be deposited in a separate fund in the Treasury of the United States and disbursed on the order of the Director of the Center, in accordance with policies established by the Board of the Center.

Reports.

"(e) The Board of the Foundation shall, not later than October 1 of each year, submit to the Committees on the Judiciary of the United States Senate and House of Representatives a report with respect to gifts received under this section during the preceding 12-month period, including the source of each such gift, the amount of each gift of cash or cash equivalent, and a description of any other gift. The Center shall include in its annual report of the activities of the Center under section 623(a)(3) a description of the purposes for which gifts were used during the year covered by the report.

Taxes.

"(f) For the purpose of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift or bequest to or for the use of the United States.".

(b) CONFORMING AMENDMENT.—The item relating to section 629 in the table of sections for chapter 42, is amended to read as follows:

102 STAT. 4648

"629. Federal Judicial Center Foundation.".

SEC. 302. AUTHORITY TO IMPLEMENT HISTORY PROGRAM.

Section 623(a) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(7) conduct, coordinate, and encourage programs relating to the history of the judicial branch of the United States Government.".

SEC. 303. AUTHORITY TO PROVIDE FOR TRAINING FOR PERSONS OUTSIDE THE JUDICIAL BRANCH.

Section 620(b)(3) is amended to read as follows:

"(3) to stimulate, create, develop, and conduct programs of continuing education and training for personnel of the judicial

branch of the Government and other persons whose participation in such programs would improve the operation of the judicial branch, including, but not limited to, judges, United States magistrates, clerks of court, probation officers, and persons serving as mediators and arbitrators;".

SEC. 304. APPOINTMENT AND COMPENSATION OF THE DEPUTY DIRECTOR OF THE CENTER.

(a) APPOINTMENT BY THE BOARD.—Section 624(1) is amended by inserting "and the Deputy Director" after "Director".

(b) COMPENSATION.—

(1) Section 626 is amended—

(A) by adding at the end the following new sentence: "The compensation of the Deputy Director of the Federal Judicial Center shall be the same as that of the Deputy Director of the Administrative Office of the United States Courts."; and

(B) by amending the section heading to read as follows:

"§ 626. Compensation of the Director and Deputy Director".

(2) The item relating to section 626 in the table of sections for chapter 42 is amended to read as follows:

"626. Compensation of the Director and Deputy Director.".

(c) BUDGET ACT COMPLIANCE.—The amendment made by subsection (b) shall be effective for fiscal years beginning on or after October 1, 1988. 28 USC 626 note.

TITLE IV—RULES ENABLING ACT

SEC. 401. RULES ENABLING ACT AMENDMENTS.

(a) IN GENERAL.—Chapter 131 is amended by striking out section 2072 and inserting in lieu thereof the following:

"§ 2072. Rules of procedure and evidence; power to prescribe

"(a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrates thereof) and courts of appeals.

102 STAT. 4649

"(b) Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.

"§ 2073. Rules of procedure and evidence; method of prescribing

"(a)(1) The Judicial Conference shall prescribe and publish the procedures for the consideration of proposed rules under this section.

"(2) The Judicial Conference may authorize the appointment of committees to assist the Conference by recommending rules to be prescribed under section 2072 of this title. Each such committee shall consist of members of the bench and the professional bar, and trial and appellate judges.

"(b) The Judicial Conference shall authorize the appointment of a standing committee on rules of practice, procedure, and evidence under subsection (a) of this section. Such standing committee shall review each recommendation of any other committees so appointed and recommend to the Judicial Conference rules of practice, procedure, and evidence and such changes in rules proposed by a committee appointed under subsection (a)(2) of this section as may be necessary to maintain consistency and otherwise promote the interest of justice.

"(c)(1) Each meeting for the transaction of business under this chapter by any committee appointed under this section shall be open to the public, except when the committee so meeting, in open session and with a majority present, determines that it is in the public interest that all or part of the remainder of the meeting on

Public information.

that day shall be closed to the public, and states the reason for so closing the meeting. Minutes of each meeting for the transaction of business under this chapter shall be maintained by the committee and made available to the public, except that any portion of such minutes, relating to a closed meeting and made available to the public, may contain such deletions as may be necessary to avoid frustrating the purposes of closing the meeting.

"(2) Any meeting for the transaction of business under this chapter, by a committee appointed under this section, shall be preceded by sufficient notice to enable all interested persons to attend.

Reports.

"(d) In making a recommendation under this section or under section 2072, the body making that recommendation shall provide a proposed rule, an explanatory note on the rule, and a written report explaining the body's action, including any minority or other separate views.

"(e) Failure to comply with this section does not invalidate a rule prescribed under section 2072 of this title.

"§ 2074. Rules of procedure and evidence; submission to Congress; effective date

"(a) The Supreme Court shall transmit to the Congress not later than May 1 of the year in which a rule prescribed under section 2072 is to become effective a copy of the proposed rule. Such rule shall take effect no earlier than December 1 of the year in which such rule is so transmitted unless otherwise provided by law. The Supreme Court may fix the extent such rule shall apply to proceedings then pending, except that the Supreme Court shall not require the application of such rule to further proceedings then pending to the extent that, in the opinion of the court in which such proceedings are pending, the application of such rule in such proceedings would not be feasible or would work injustice, in which event the former rule applies.

102 STAT. 4650

"(b) Any such rule creating, abolishing, or modifying an evidentiary privilege shall have no force or effect unless approved by Act of Congress.".

(b) ADVISORY COMMITTEES FOR COURTS.—Section 2077(b) is amended—

(1) by striking out "of appeals" the first place it appears and inserting in lieu thereof ", except the Supreme Court, that is authorized to prescribe rules of the conduct of such court's business under section 2071 of this title"; and

(2) by striking out "the court of appeals" and inserting in lieu thereof "such court".

(c) REPEALER.—Section 2076 is repealed.

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 131 is amended by striking out the item relating to section 2072 and all that follows through the item relating to section 2076 and inserting in lieu thereof the following:

"2072. Rules of procedure and evidence; power to prescribe.
"2073. Rules of procedure and evidence; method of prescribing.
"2074. Rules of procedure and evidence; submission to Congress; effective date.
"2075. Bankruptcy rules.".

SEC. 402. COMPILATION AND REVIEW OF LOCAL RULES.

(a) COMPILATION.—Section 604(a) is amended—

(1) by redesignating paragraph (18) as paragraph (23); and

(2) by inserting after paragraph (18) the following:

Records.

"(19) Periodically compile—

"(A) the rules which are prescribed under section 2071 of this title by courts other than the Supreme Court;

"(B) the rules which are prescribed under section 372(c)(11) of this title; and

Public information.

"(C) the orders which are required to be publicly available under section 372(c)(15) of this title;

so as to provide a current record of such rules and orders;".

(b) REVIEW.—Section 331 is amended by inserting after the fifth paragraph the following:

"The Judicial Conference shall review rules prescribed under section 2071 of this title by the courts, other than the Supreme Court and the district courts, for consistency with Federal law. The Judicial Conference may modify or abrogate any such rule so reviewed found inconsistent in the course of such a review.".

SEC. 403. RULES BY CERTAIN COURTS AND ORDERS BY CIRCUIT JUDICIAL COUNCILS AND THE JUDICIAL CONFERENCE.

(a) RULES BY CERTAIN COURTS.—(1) Section 2071 is amended—

(A) by inserting "(a)" before "The";

(B) by striking out "by the Supreme Court" and inserting in lieu thereof "under section 2072 of this title"; and

(C) by adding at the end the following:

"(b) Any rule prescribed by a court, other than the Supreme Court, under subsection (a) shall be prescribed only after giving appropriate public notice and an opportunity for comment. Such rule shall take effect upon the date specified by the prescribing court and shall have such effect on pending proceedings as the prescribing court may order.

102 STAT. 4651

"(c)(1) A rule of a district court prescribed under subsection (a) shall remain in effect unless modified or abrogated by the judicial council of the relevant circuit.

"(2) Any other rule prescribed by a court other than the Supreme Court under subsection (a) shall remain in effect unless modified or abrogated by the Judicial Conference.

"(d) Copies of rules prescribed under subsection (a) by a district court shall be furnished to the judicial council, and copies of all rules prescribed by a court other than the Supreme Court under subsection (a) shall be furnished to the Director of the Administrative Office of the United States Courts and made available to the public.

Public information

"(e) If the prescribing court determines that there is an immediate need for a rule, such court may proceed under this section without public notice and opportunity for comment, but such court shall promptly thereafter afford such notice and opportunity for comment.

"(f) No rule may be prescribed by a district court other than under this section.".

(2) Section 332(d) is amended by adding at the end the following new paragraph:

"(4) Each judicial council shall periodically review the rules which are prescribed under section 2071 of this title by district courts within its circuit for consistency with rules prescribed under section 2072 of this title. Each council may modify or abrogate any such rule found inconsistent in the course of such a review.".

(b) ORDERS BY CIRCUIT JUDICIAL COUNCILS.—Section 332(d)(1) is amended by inserting after the first sentence the following new sentence: "Any general order relating to practice and procedure shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such order so relating shall take effect upon the date specified by such judicial council. Copies of such orders so relating shall be furnished to the Judicial Conference and the Administrative Office of the United States Courts and be made available to the public.".

Public information.

(c) RULES BY JUDICIAL CONFERENCE AND CIRCUIT JUDICIAL COUNCILS.—Section 372(c)(11) is amended by inserting before "Any rule promulgated" the following new sentence: "Any such rule shall be made or amended only after giving appropriate public notice and an opportunity for comment.".

SEC. 404. CONFORMING AND OTHER TECHNICAL AMENDMENTS.

(a) CONFORMING REPEAL OF CRIMINAL RULES ENABLING PROVISIONS.—(1) Chapter 237 of title 18, United States Code, and the item relating to chapter 237 in the table of chapters for part II of such title, are repealed.

(b) CONFORMING AMENDMENTS RELATING TO MAGISTRATES.—(1) Section 636(d) is amended by striking out "section 3402 of title 18, United States Code" and inserting in lieu thereof "section 2072 of this title".

(2) Section 3402 of title 18, United States Code, is amended by striking out the second paragraph.

(c) CROSS REFERENCE TECHNICAL AMENDMENT.—Section 9 of the Act entitled "An Act to provide an adequate basis for the administration of the Lake Mead National Recreation Area, Arizona and
102 STAT. 4652 Nevada, and for other purposes" approved October 8, 1964 (Public Law 88-639; 16 U.S.C. 460n-8) is amended by striking out the sentence beginning "The provisions of title 18, section 3402".

28 USC 2071 note.

SEC. 405. TAX COURT RULE MAKING NOT AFFECTED.

The amendments made by this title shall not affect the authority of the Tax Court to prescribe rules under section 7453 of the Internal Revenue Code of 1986.

28 USC 2071 note.

SEC. 406. SAVINGS PROVISION.

The rules prescribed in accordance with law before the effective date of this title and in effect on the date of such effective date shall remain in force until changed pursuant to the law as amended by this title.

28 USC 2071 note.

SEC. 407. EFFECTIVE DATE.

This title shall take effect on December 1, 1988.

TITLE V—JURISDICTION OF THE FEDERAL CIRCUIT

SEC. 501. INTERLOCUTORY APPEALS.

Section 1292(d) is amended by adding at the end the following new paragraph:

Territories, U.S.

"(4)(A) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction of an appeal from an interlocutory order of a district court of the United States, the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands, granting or denying, in whole or in part, a motion to transfer an action to the United States Claims Court under section 1631 of this title.

"(B) When a motion to transfer an action to the Claims Court is filed in a district court, no further proceedings shall be taken in the district court until 60 days after the court has ruled upon the motion. If an appeal is taken from the district court's grant or denial of the motion, proceedings shall be further stayed until the appeal has been decided by the Court of Appeals for the Federal Circuit. The stay of proceedings in the district court shall not bar the granting of preliminary or injunctive relief, where appropriate and where expedition is reasonably necessary. However, during the period in which proceedings are stayed as provided in this subparagraph, no transfer to the Claims Court pursuant to the motion shall be carried out.".

28 USC 1292 note.

SEC. 502. EFFECTIVE DATE.

The amendment made by section 501 shall apply to any action commenced in the district court on or after the date of enactment of this title.

TITLE VI—STATE JUSTICE INSTITUTE AMENDMENTS

SEC. 601. RULE MAKING.

Section 203(f) of the State Justice Institute Act of 1984 (42 U.S.C. 10702(f)) is amended—

(1) by striking out ", at least thirty days prior to their effective date,"; and 102 STAT. 4653

(2) by adding at the end the following: "The publication of a substantive rule shall be made not less than 30 days before the effective date of such rule, except as otherwise provided by the Institute for good cause found and published with the rule.".

SEC. 602. CIVIL SERVICE RETIREMENT.

Section 205(d)(2) of the State Justice Institute Act of 1984 (42 U.S.C. 10704(d)(2)) is amended by striking out "chapter 83" and inserting in lieu thereof "chapters 83 and 84".

SEC. 603. USE OF FUNDS UNDER GRANTS AND CONTRACTS.

Section 206(c) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(c)) is amended—

(1) in paragraph (3) by inserting "judicial and" after "using";

(2) by striking out paragraph (4); and

(3) by redesignating paragraphs (5) through (15) as paragraphs (4) through (14), respectively.

SEC. 604. UNIT OF STATE OR LOCAL GOVERNMENT MATCHING FUNDS.

Section 206(d) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(d)) is amended by striking out "judicial system" and inserting in lieu thereof "court (or other unit of State or local government)".

SEC. 605. INTERIM FUNDING.

Section 207(a) of the State Justice Institute Act of 1984 (42 U.S.C. 10706(a)) is amended—

(1) in paragraph (1)(B) by adding "and" after the semicolon;

(2) in paragraph (2) by striking out "; and" and inserting in lieu thereof a period; and

(3) by striking out paragraph (3).

SEC. 606. PROCEDURES FOR SUSPENSION OF FUNDING; RESTRICTIONS ON DISCLOSURE OF INFORMATION.

Section 209 of the State Justice Institute Act of 1984 (42 U.S.C. 10708) is amended to read as follows:

"ADMINISTRATIVE PROVISIONS

"SEC. 209. (a) The Institute shall prescribe procedures to ensure that financial assistance under this title shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such actions should not be taken.

"(b) Except as provided by Federal law other than this title, no officer or employee of the Institute, and no recipient of assistance under this title, may use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which the information was obtained in accordance with this title. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.". 102 STAT. 4654

SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

Section 215 of the State Justice Institute Act of 1984 (42 U.S.C. 10713) is amended to read as follows:

"SEC. 215. There are authorized to be appropriated to carry out the purposes of this title $15,000,000 for each of the fiscal years 1989 and 1990. Amounts appropriated under this section may remain available until expended.".

Court Interpreter Amendments Act of 1988.

TITLE VII—COURT INTERPRETERS AMENDMENTS

28 USC 1 note.

SEC. 701. SHORT TITLE.

This title may be cited as the "Court Interpreter Amendments Act of 1988".

SEC. 702. AUTHORITY OF THE DIRECTOR.

Section 1827(a) is amended to read as follows:

"(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of certified and otherwise qualified interpreters in judicial proceedings instituted by the United States.".

SEC. 703. CERTIFICATION OF INTERPRETERS; OTHER QUALIFIED INTERPRETERS.

Section 1827(b) is amended to read as follows:

"(b)(1) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters, when the Director considers certification of interpreters to be merited, for the hearing impaired (whether or not also speech impaired) and persons who speak only or primarily a language other than the English language, in judicial proceedings instituted by the United States. The Director may certify interpreters for any language if the Director determines that there is a need for certified interpreters in that language. Upon the request of the Judicial Conference of the United States for certified interpreters in a language, the Director shall certify interpreters in that language. Upon such a request from the judicial council of a circuit and the approval of the Judicial Conference, the Director shall certify interpreters for that circuit in the language requested. The judicial council of a circuit shall identify and evaluate the needs of the districts within a circuit. The Director shall certify interpreters based on the results of criterion-referenced performance examinations. The Director shall issue regulations to carry out this paragraph within 1 year after the date of the enactment of the Judicial Improvements and Access to Justice Act.

Regulations.

"(2) Only in a case in which no certified interpreter is reasonably available as provided in subsection (d) of this section, including a case in which certification of interpreters is not provided under paragraph (1) in a particular language, may the services of otherwise qualified interpreters be used. The Director shall provide guidelines to the courts for the selection of otherwise qualified interpreters, in order to ensure that the highest standards of accuracy are maintained in all judicial proceedings subject to the provisions of this chapter.

102 STAT. 4655

"(3) The Director shall maintain a current master list of all certified interpreters and otherwise qualified interpreters and shall report periodically on the use and performance of both certified and otherwise qualified interpreters in judicial proceedings instituted by the United States and on the languages for which interpreters have been certified. The Director shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by interpreters, certified or otherwise, used in proceedings instituted by the United States, and in doing so shall consider the prevailing rate of compensation for comparable service in other governmental entities.".

Records. Reports.

SEC. 704. LISTS OF INTERPRETERS; RESPONSIBILITY FOR SECURING SERVICES OF INTERPRETERS.

Section 1827(c) is amended to read as follows:

"(c)(1) Each United States district court shall maintain on file in the office of the clerk, and each United States attorney shall maintain on file, a list of all persons who have been certified as inter-

Records.

preters by the Director in accordance with subsection (b) of this section. The clerk shall make the list of certified interpreters for judicial proceeding available upon request. Public information.

"(2) The clerk of the court, or other court employee designated by the chief judge, shall be responsible for securing the services of certified interpreters and otherwise qualified interpreters required for proceedings initiated by the United States, except that the United States attorney is responsible for securing the services of such interpreters for governmental witnesses.".

SEC. 705. SOUND RECORDINGS.

Section 1827(d) is amended by—

(1) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) inserting "(1)" after "(d)"; and

(3) adding at the end thereof the following:

"(2) Upon the motion of a party, the presiding judicial officer shall determine whether to require the electronic sound recording of a judicial proceeding in which an interpreter is used under this section. In making this determination, the presiding judicial officer shall consider, among other things, the qualifications of the interpreter and prior experience in interpretation of court proceedings; whether the language to be interpreted is not one of the languages for which the Director has certified interpreters, and the complexity or length of the proceeding. In a grand jury proceeding, upon the motion of the accused, the presiding judicial officer shall require the electronic sound recording of the portion of the proceeding in which an interpreter is used.".

SEC. 706. AUTHORIZATION OF APPROPRIATIONS; PAYMENT FOR SERVICES OF INTERPRETERS.

Section 1827(g) is amended—

(a) by amending paragraphs (1), (2), and (3) to read as follows:

"(g)(1) There are authorized to be appropriated to the Federal judiciary, and to be paid by the Director of the Administrative Office of the United States Courts, such sums as may be necessary to establish a program to facilitate the use of certified and otherwise qualified interpreters, and otherwise fulfill the provisions of this section and the Judicial Improvements and Access to Justice Act, except as provided in paragraph (3). 102 STAT. 4656

"(2) Implementation of the provisions of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section.

"(3) Such salaries, fees, expenses, and costs that are incurred with respect to Government witnesses (including for grand jury proceedings) shall, unless direction is made under paragraph (4), be paid by the Attorney General from sums appropriated to the Department of Justice.";

(b) by redesignating paragraph (4) as paragraph (5) and by inserting between paragraph (3) and paragraph (5), the following:

"(4) Upon the request of any person in any action for which interpreting services established pursuant to subsection (d) are not otherwise provided, the clerk of the court, or other court employee designated by the chief judge, upon the request of the presiding judicial officer, shall, where possible, make such services available to that person on a cost-reimbursable basis, but the judicial officer may also require the prepayment of the estimated expenses of providing such services.".

SEC. 707. APPROVAL OF COMPENSATION AND EXPENSES.

Section 1827(h) is amended to read as follows:

"(h) The presiding judicial officer shall approve the compensation and expenses payable to interpreters, pursuant to the schedule of fees prescribed by the Director under subsection (b)(3).".

SEC. 708. DEFINITIONS.

Subsections (i) and (j) of section 1827 are amended to read as follows:

"(i) The term 'presiding judicial officer' as used in this section refers to any judge of a United States district court, including a bankruptcy judge, a United States magistrate, and in the case of grand jury proceedings conducted under the auspices of the United States attorney, a United States attorney.

"(j) The term 'judicial proceedings instituted by the United States' as used in this section refers to all proceedings, whether criminal or civil, including pretrial and grand jury proceedings (as well as proceedings upon a petition for a writ of habeas corpus initiated in the name of the United States by a relator) conducted in, or pursuant to the lawful authority and jurisdiction of a United States district court. The term 'United States district court' as used in this subsection includes any court which is created by an Act of Congress in a territory and is invested with any jurisdiction of a district court established by chapter 5 of this title.".

SEC. 709. SIMULTANEOUS INTERPRETATION.

Section 1827(k) is amended to read as follows:

"(k) The interpretation provided by certified or otherwise qualified interpreters pursuant to this section shall be in the simultaneous mode for any party to a judicial proceeding instituted by the United States and in the consecutive mode for witnesses, except that the presiding judicial officer, sua sponte or on the motion of a party, may authorize a simultaneous, or consecutive interpretation when such officer determines after a hearing on the record that such interpretation will aid in the efficient administration of justice. The
102 STAT. 4657 presiding judicial officer, on such officer's motion or on the motion of a party, may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.".

SEC. 710. TECHNICAL AMENDMENTS.

(a) Section 1827(d) is amended—

(1) by striking out "competent" and inserting in lieu thereof "qualified";

(2) by striking out "any criminal" and all that follows through "relator)" and inserting in lieu thereof "judicial proceedings instituted by the United States"; and

(3) by striking out "such action" and inserting in lieu thereof "such judicial proceedings".

(b) Section 1827(e)(2) is amended by striking out "criminal or civil action in a United States district court" and inserting in lieu thereof "judicial proceedings instituted by the United States".

28 USC 1827 note.

SEC. 711. IMPACT ON EXISTING PROGRAMS.

Nothing in this title shall be construed to terminate or diminish existing programs for the certification of interpreters.

28 USC 1827 note.

SEC. 712. EFFECTIVE DATE.

This title shall become effective upon the date of enactment.

TITLE VIII—JURY SELECTION AND SERVICE

SEC. 801. EXCUSE OF JURORS.

Section 1866(c)(1) is amended to read as follows: "(1) excused by the court, or by the clerk under supervision of the court if the court's jury selection plan so authorizes, upon a showing of undue hardship or extreme inconvenience, for such period as the court deems necessary, at the conclusion of which such person either shall

be summoned again for jury service under subsections (b) and (c) of this section or, if the court's jury selection plan so provides, the name of such person shall be reinserted into the qualified jury wheel for selection pursuant to subsection (a) of this section, or".

SEC. 802. JURY SELECTION PLAN.

(a) CLERK DEFINED FOR PURPOSES OF FUNCTIONS UNDER PLAN.—Section 1869(a) is amended to read as follows:

"(a) 'clerk' and 'clerk of the court' shall mean the clerk of the district court of the United States, any authorized deputy clerk, and any other person authorized by the court to assist the clerk in the performance of functions under this chapter;".

(b) OPTIONAL JURY SERVICE BY VOLUNTEER PUBLIC SAFETY PERSONNEL.—Paragraph (5) of section 1863(b)(5) is amended—

(1) by inserting "(A) except as provided in subparagraph (B)," after "(5)", and

(2) by adding at the end the following:

"(B) specify that volunteer safety personnel, upon individual request, shall be excused from jury service. For purposes of this subparagraph, the term 'volunteer safety personnel' means individuals serving a public agency (as defined in section 1203(6) of title I of the Omnibus Crime Control and Safe Streets Act of 1968) in an official capacity, without compensation, as firefighters or members of a rescue squad or ambulance crew.". 102 STAT. 4658

(c) PERSONS EXEMPTED FROM JURY SERVICE.—Paragraph (6) of section 1863(b) is amended to read as follows:

"(6) specify that the following persons are barred from jury service on the ground that they are exempt: (A) members in active service in the Armed Forces of the United States; (B) members of the fire or police departments of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession; (C) public officers in the executive, legislative, or judicial branches of the Government of the United States, or of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession, who are actively engaged in the performance of official duties.". Armed Forces. Firemen. Policemen.

SEC. 803. MASTER JURY WHEEL.

(a) ALPHABETICAL LIST NOT MANDATORY.—Strike out the second sentence of section 1864(a) and insert the following: "The clerk or jury commission may, upon order of the court, prepare an alphabetical list of the names drawn from the master jury wheel. Any list so prepared shall not be disclosed to any person except pursuant to the district court plan or pursuant to section 1867 or 1868 of this title.". Classified information.

(b) CONFORMING AMENDMENT.—The second sentence of section 1865(a) is amended by striking out "the alphabetical" and inserting in lieu thereof "in any alphabetical".

SEC. 804. TECHNICAL AMENDMENT.

Section 1869(f) is amended to read as follows:

"(f) 'district court of the United States', 'district court', and 'court' shall mean any district court established by chapter 5 of this title, and any court which is created by Act of Congress in a territory and is invested with any jurisdiction of a district court established by chapter 5 of this title;".

SEC. 805. EXPERIMENTAL USE OF NEW JURY SELECTION PROCEDURES.

(a) SECTION 1878.—Chapter 121 is amended by adding at the end thereof the following:

"§ 1878. Experimental use of a one-step summoning and qualification procedure

"(a) The Judicial Conference of the United States is hereby authorized to develop and conduct an experiment in which jurors

serving in a limited number of United States district courts shall be qualified and summoned in a single procedure, in lieu of the two separate procedures otherwise provided for by this chapter. The Judicial Conference shall designate the district courts to participate in this experiment, but in no event shall the number of courts participating exceed ten. An experiment may be conducted pursuant to this section for a period not to exceed 2 years. The Judicial Conference shall ensure that an experiment conducted pursuant to this section does not violate the policies and objectives set forth in sections 1861 and 1862 of this title, and shall terminate the experiment immediately if it determines that these policies and objectives are being violated or whenever in its judgment good cause for such termination exists.

102 STAT. 4659

"(b) Jury selection conducted pursuant to this section shall be subject to challenge under section 1867 of this title for substantial failure to comply with the provisions of this title in selecting the jury. However, no challenge under section 1867 of this title shall lie solely on the basis that a jury was selected in accordance with an experiment conducted pursuant to this section.".

(b) TECHNICAL.—The table of sections for chapter 121 is amended by adding at the end thereof the following new item:

"1878 Experimental use of a one-step summoning and qualification procedure.".

TITLE IX—ARBITRATION

SEC. 901. ARBITRATION AUTHORIZATION BY DISTRICT COURTS.

(a) IN GENERAL.—Title 28, United States Code, is amended by inserting after chapter 43 the following new chapter:

"CHAPTER 44—ARBITRATION

"Sec.
"651. Authorization of arbitration.
"652. Jurisdiction.
"653. Powers of arbitrator; arbitration hearing.
"654. Arbitration award and judgment.
"655. Trial de novo.
"656. Certification of arbitrators.
"657. Compensation of arbitrators.
"658. District courts that may authorize arbitration.

"§ 651. Authorization of arbitration

"(a) AUTHORITY OF CERTAIN DISTRICT COURTS.—Each United States district court described in section 658 may authorize by local rule the use of arbitration in any civil action, including an adversary proceeding in bankruptcy. A district court described in section 658(1) may refer any such action to arbitration as set forth in section 652(a). A district court described in section 658(2) may refer only such actions to arbitration as are set forth in section 652(a)(1)(A).

"(b) TITLE 9 NOT AFFECTED.—This chapter shall not affect title 9.

"§ 652. Jurisdiction

"(a) ACTIONS THAT MAY BE REFERRED TO ARBITRATION.—(1) Notwithstanding any provision of law to the contrary and except as provided in subsections (b) and (c) of this section, and section 901(c) of the Judicial Improvements and Access to Justice Act, a district court that authorizes arbitration under section 651 may—

"(A) allow the referral to arbitration of any civil action (including any adversary proceeding in bankruptcy) pending before it if the parties consent to arbitration, and

"(B) require the referral to arbitration of any civil action pending before it if the relief sought consists only of money damages not in excess of $100,000 or such lesser amount as the district court may set, exclusive of interest and costs.

"(2) For purposes of paragraph (1)(B), a district court may presume damages are not in excess of $100,000 unless counsel certifies that damages exceed such amount.

102 STAT. 4660

"(b) ACTIONS THAT MAY NOT BE REFERRED WITHOUT CONSENT OF PARTIES.—Referral to arbitration under subsection (a)(1)(B) may not be made—

"(1) of an action based on an alleged violation of a right secured by the Constitution of the United States, or

"(2) if jurisdiction is based in whole or in part on section 1343 of this title.

"(c) EXCEPTIONS FROM ARBITRATION.—Each district court shall establish by local rule procedures for exempting, sua sponte or on motion of a party, any case from arbitration in which the objectives of arbitration would not be realized—

"(1) because the case involves complex or novel legal issues,

"(2) because legal issues predominate over factual issues, or

"(3) for other good cause.

"(d) SAFEGUARDS IN CONSENT CASES.—In any civil action in which arbitration by consent is allowed under subsection (a)(1)(A), the district court shall by local rule establish procedures to ensure that—

"(1) consent to arbitration is freely and knowingly obtained, and

"(2) no party or attorney is prejudiced for refusing to participate in arbitration.

"§ 653. Powers of arbitrator; arbitration hearing

"(a) POWERS.—An arbitrator to whom an action is referred under section 652 shall have, within the judicial district of the district court which referred the action to arbitration, the power—

"(1) to conduct arbitration hearings,

"(2) to administer oaths and affirmations, and

"(3) to make awards.

"(b) TIME FOR BEGINNING ARBITRATION HEARING.—An arbitration hearing under this chapter shall begin within a time period specified by the district court, but in no event later than 180 days after the filing of an answer, except that the arbitration proceeding shall not, in the absence of the consent of the parties, commence until 30 days after the disposition by the district court of any motion to dismiss the complaint, motion for judgment on the pleadings, motion to join necessary parties, or motion for summary judgment, if the motion was filed during a time period specified by the district court. The 180-day and 30-day periods specified in the preceding sentence may be modified by the court for good cause shown.

"(c) SUBPOENAS.—Rule 45 of the Federal Rules of Civil Procedure (relating to subpoenas) applies to subpoenas for the attendance of witnesses and the production of documentary evidence at an arbitration hearing under this chapter.

"§ 654. Arbitration award and judgment

"(a) FILING AND EFFECT OF ARBITRATION AWARD.—An arbitration award made by an arbitrator under this chapter, along with proof of service of such award on the other party by the prevailing party or by the plaintiff, shall, promptly after the arbitration hearing is concluded, be filed with the clerk of the district court that referred the case to arbitration. Such award shall be entered as the judgment of the court after the time has expired for requesting a trial de novo under section 655. The judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the court in a civil action, except that the judgment shall not be subject to review in any other court by appeal or otherwise.

102 STAT. 4661

"(b) SEALING OF ARBITRATION AWARD.—The district court shall provide by local rule that the contents of any arbitration award made under this chapter shall not be made known to any judge who might be assigned to the case—

"(1) except as necessary for the court to determine whether to assess costs or attorney fees under section 655,

"(2) until the district court has entered final judgment in the action or the action has been otherwise terminated, or

"(3) except for purposes of preparing the report required by section 903(b) of the Judicial Improvements and Access to Justice Act.

"(c) TAXATION OF COSTS.—The district court may by rule allow for the inclusion of costs as provided in section 1920 of this title as a part of the arbitration award.

"§ 655. Trial de novo

"(a) TIME FOR DEMAND.—Within 30 days after the filing of an arbitration award with a district court under section 654, any party may file a written demand for a trial de novo in the district court.

"(b) RESTORATION TO COURT DOCKET.—Upon a demand for a trial de novo, the action shall be restored to the docket of the court and treated for all purposes as if it had not been referred to arbitration. In such a case, any right of trial by jury that a party otherwise would have had, as well as any place on the court calendar which is no later than that which a party otherwise would have had, are preserved.

"(c) LIMITATION ON ADMISSION OF EVIDENCE.—The court shall not admit at the trial de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award, or any other matter concerning the conduct of the arbitration proceeding, unless—

"(1) the evidence would otherwise be admissible in the court under the Federal Rules of Evidence, or

"(2) the parties have otherwise stipulated.

"(d) TAXATION OF ARBITRATOR FEES AS COST.—(1)(A) A district court may provide by rule that, in any trial de novo under this section, arbitrator fees paid under section 657 may be taxed as costs against the party demanding the trial de novo.

"(B) Such rule may provide that a party demanding a trial de novo under subsection (a), other than the United States or its agencies or officers, shall deposit a sum equal to such arbitrator fees as advanced payment of such costs, unless the party is permitted to proceed in forma pauperis.

"(2) Arbitrator fees shall not be taxed as costs under paragraph (1)(A), and any sum deposited under paragraph (1)(B) shall be returned to the party demanding the trial de novo, if—

"(A) the party demanding the trial de novo obtains a final judgment more favorable than the arbitration award, or

"(B) the court determines that the demand for the trial de novo was made for good cause.

"(3) Any arbitrator fees taxed as costs under paragraph (1)(A), and any sum deposited under paragraph (1)(B) that is not returned to the party demanding the trial de novo, shall be paid to the Treasury of the United States.

102 STAT. 4662

"(4) Any rule under this subsection shall provide that no penalty for demanding a trial de novo, other than that provided in this subsection, shall be assessed by the court.

"(e) ASSESSMENT OF COSTS AND ATTORNEY FEES.—In any trial de novo demanded under subsection (a) in which arbitration was done by consent of the parties, a district court may assess costs, as provided in section 1920 of this title, and reasonable attorney fees against the party demanding the trial de novo if—

"(1) such party fails to obtain a judgment, exclusive of interest and costs, in the court which is substantially more favorable to such party than the arbitration award, and

"(2) the court determines that the party's conduct in seeking a trial de novo was in bad faith.

"§ 656. Certification of arbitrators

"(a) STANDARDS FOR CERTIFICATION.—Each district court listed in section 658 shall establish standards for the certification of arbitrators and shall certify arbitrators to perform services in accordance with such standards and this chapter. The standards shall include provisions requiring that any arbitrator—

"(1) shall take the oath or affirmation described in section 453, and

"(2) shall be subject to the disqualification rules of section 455.

"(b) TREATMENT OF ARBITRATOR AS INDEPENDENT CONTRACTOR AND SPECIAL GOVERNMENT EMPLOYEE.—An arbitrator is an independent contractor and is subject to the provisions of sections 201 through 211 of title 18 to the same extent as such provisions apply to a special Government employee of the executive branch. A person may not be barred from the practice of law because such person is an arbitrator.

"§ 657. Compensation of arbitrators

"(a) COMPENSATION.—The district court may, subject to limits set by the Judicial Conference of the United States, establish and pay the amount of compensation, if any, that each arbitrator shall receive for services rendered in each case.

"(b) TRANSPORTATION ALLOWANCES.—Under regulations prescribed by the Director of the Administrative Office of the United States Courts, a district court may reimburse arbitrators for actual transportation expenses necessarily incurred in the performance of duties under this chapter.

"§ 658. District courts that may authorize arbitration

"The district courts for the following judicial districts may authorize the use of arbitration under this chapter:

"(1) Northern District of California, Middle District of Florida, Western District of Michigan, Western District of Missouri, District of New Jersey, Eastern District of New York, Middle District of North Carolina, Western District of Oklahoma, Eastern District of Pennsylvania, and Western District of Texas. State listing.

"(2) Ten additional judicial districts, which shall be approved by the Judicial Conference of the United States. The Judicial Conference shall give notice of the 10 districts approved under this paragraph to the Federal Judicial Center and to the public.".

102 STAT. 4663

(b) CONFORMING AMENDMENT.—The table of chapters at the beginning of part III is amended by inserting after the item relating to chapter 43 the following new item:

"44. Arbitration ..... 651".

(c) EXCEPTION TO LIMITATION ON MONEY DAMAGES.—Notwithstanding section 652 (as added by subsection (a) of this section), establishing a limitation of $100,000 in money damages with respect to cases referred to arbitration, a district court listed in section 658 (as added by subsection (a) of this section), whose local rule on the date of the enactment of this Act provides for a limitation on money damages, with respect to such cases, of not more than $150,000, may continue to apply the higher limitation. 28 USC 652 note.

SEC. 902. MODEL PROCEDURES. 28 USC 651 note.

The Judicial Conference of the United States may develop model rules relating to procedures for arbitration under chapter 44, as added by section 901 of this Act. No model rule may supersede any provision of such chapter 44, this title, or any law of the United States.

SEC. 903. REPORTS. 28 USC 651 note.

(a) ANNUAL REPORT BY DIRECTOR OF ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative

Office of the United States Courts shall include in the annual report of the activities of the Administrative Office required under section 604(a)(3), statistical information about the implementation of chapter 44, as added by section 901 of this Act.

(b) REPORT BY FEDERAL JUDICIAL CENTER.—Not later than 5 years after the date of enactment of this Act, the Federal Judicial Center, in consultation with the Director of the Administrative Office of the United States Courts, shall submit to the Congress a report on the implementation of chapter 44, as added by section 901 of this Act, which shall include the following:

(1) A description of the arbitration programs authorized by such chapter, as conceived and as implemented in the judicial districts in which such programs are authorized.

(2) A determination of the level of satisfaction with the arbitration programs in those judicial districts by a sampling of court personnel, attorneys, and litigants whose cases have been referred to arbitration.

(3) A summary of those program features that can be identified as being related to program acceptance both within and across judicial districts.

(4) A description of the levels of satisfaction relative to the cost per hearing of each program.

(5) Recommendations to the Congress on whether to terminate or continue chapter 44, or, alternatively, to enact an arbitration provision in title 28, United States Code, authorizing arbitration in all Federal district courts.

28 USC 651 note.

SEC. 904. EFFECT ON JUDICIAL RULE MAKING POWERS.

Nothing in this title, or in chapter 44, as added by section 901 of this Act, is intended to abridge, modify, or enlarge the rule making powers of the Federal judiciary.

102 STAT. 4664

28 USC 651 note.

SEC. 905. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the fiscal year ending September 30, 1989, and for each of the succeeding 4 fiscal years, to the judicial branch such sums as may be necessary to carry out the purposes of chapter 44, as added by section 901 of this Act. Funds appropriated under this section shall be allocated by the Administrative Office of the United States Courts to Federal judicial districts and the Federal Judicial Center. The funds so appropriated are authorized to remain available until expended, except that such funds may not be expended for the arbitration of actions referred to arbitration after the date of repeal set forth in section 906 of this Act.

28 USC 651 note.

SEC. 906. REPEAL.

Effective 5 years after the date of the enactment of this Act, chapter 44, as added by section 901 of this Act, and the item relating to that chapter in the table of chapters at the beginning of part III of such title, are repealed, except that the provisions of that chapter shall continue to apply through final disposition of all actions in which referral to arbitration was made before the date of repeal.

SEC. 907. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act.

TITLE X—MISCELLANEOUS PROVISIONS

SEC. 1001. DIVISIONAL VENUE IN CIVIL CASES.

(a) REPEAL.—Section 1393, relating to divisional venue in civil cases, and the item relating to section 1393 in the table of sections at the beginning of chapter 87, are repealed.

28 USC 1393 note.

(b) EFFECTIVE DATE.—The amendments made by this section take effect 90 days after the date of enactment of this Act.

SEC. 1002. REGISTRATION OF FOREIGN JUDGMENTS.

(a) JUDGMENTS OF DISTRICT COURTS AND COURT OF INTERNATIONAL TRADE.—Section 1963 is amended by amending the first sentence to read as follows: "A judgment in an action for the recovery of money or property entered in any district court or in the Court of International Trade may be registered by filing a certified copy of such judgment in any other district or, with respect to the Court of International Trade, in any judicial district, when the judgment has become final by appeal or expiration of the time for appeal or when ordered by the court that entered the judgment for good cause shown.".

(b) CONFORMING AMENDMENTS.—(1) The section caption for section 1963 is amended to read as follows:

"§ 1963. Registration of judgments of the district courts and the Court of International Trade".

(2) Section 1963A is repealed.

(3)(A) The item relating to section 1963 in the table of sections at the beginning of chapter 125 is amended to read as follows:

"1963. Registration of judgments of the district courts and the Court of International Trade.".

(B) The table of sections at the beginning of chapter 125 is amended by repealing the item relating to section 1963A.

(c) EFFECTIVE DATE.—The amendments made by this section take effect 90 days after the date of enactment of this title. 28 USC 1963 note.

SEC. 1003. BANKRUPTCY JUDGE, MAGISTRATE AND LAW CLERK EXEMPTION FROM FEDERAL LEAVE ACT.

(a) AMENDMENTS TO SECTIONS 153, 156, 631, 634, 712, 752, AND 794.—

(1) Section 153 is amended by adding at the end thereof the following:

"(d) A bankruptcy judge appointed under this chapter shall be exempt from the provisions of subchapter I of chapter 63 of title 5.".

(2) Section 631 is amended by adding at the end thereof the following:

"(l) A United States magistrate appointed under this chapter shall be exempt from the provisions of subchapter I of chapter 63 of title 5.".

(3) Sections 156(a), 712, 752, and 794 are each amended by adding at the end thereof the following:

"A law clerk appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, unless specifically included by the appointing judge or by local rule of court.".

(4) Section 634(c) is amended by adding at the end thereof the following: "A legal assistant appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, unless specifically included by the appointing judge or by local rule of court.".

(b) TRANSITION PROVISIONS.—(1) If an individual who is exempted from the Leave Act by operation of amendments under this section and who was previously subject to the provisions of subchapter I of chapter 63 of title 5, United States Code, without a break in service, again becomes subject to this subchapter on completion of his service as an exempted officer, the unused annual leave and sick leave standing to his credit when he was exempted from this subchapter is deemed to have remained to his credit. 28 USC 153 note.

(2) In computing an annuity under section 8339 of title 5, United States Code, the total service of a person specified in paragraph (1) of this subsection who retired on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of section 8339 of title 5, United States Code, the days of unused sick leave standing to his credit when he was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility.

SEC. 1004. COST-OF-LIVING ADJUSTMENT OF ANNUITIES PAYABLE UNDER SECTIONS 611 AND 627.

(a) AMENDMENTS TO SECTIONS 611 AND 627.—Sections 611 and 627 are amended by adding at the end thereof a new paragraph denominated as subsection (e) of section 611 and subsection (f) of section 627, to read as follows:

"Each annuity payable under this section shall be increased by the same percentage amount and effective on the same date as annuities payable under chapter 83 of title 5, are increased as provided by section 8340 of title 5.".

102 STAT. 4666

28 USC 611 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to cost-of-living increases that go into effect on or after the date of enactment of this title with respect to any annuity being paid or becoming payable on or after such date.

SEC. 1005. MILITARY RETIREMENT PAY FOR SENIOR OR RETIRED JUDGES.

(a) AMENDMENTS TO SECTION 371.—Section 371 is amended by adding at the end thereof the following new subsection:

Uniformed services.

"(e) Notwithstanding subsection (c) of section 5532 of title 5, if a regular or reserve member or former member of a uniformed service who is receiving retired or retainer pay becomes employed as a justice or judge of the United States, as defined by section 451, or becomes eligible therefor while so employed, such retired or retainer pay shall not be paid during regular active service as a justice or judge, but shall be resumed or commenced without reduction upon retirement from the judicial office or from regular active service (into senior status) as such justice or judge.".

28 USC 371 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to a justice or judge who retires, or has retired, from the judicial office or from regular active service (into senior status) as such justice or judge of the United States on or after the effective date of section 5532(c) of title 5, and to whom section 5532(c) would otherwise be applicable.

SEC. 1006. AMENDMENTS TO CONFORM SECTIONS 611 AND 627 TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986.

(a) AMENDMENTS TO SECTIONS 611 AND 627.—

(1) Section 611(a) is amended to read as follows:

"(a) The Director may, by written election filed with the Chief Justice of the United States within 6 months after the date on which he takes office, waive coverage under chapter 83 of title 5, subchapter III (the Civil Service Retirement System) or chapter 84 of title 5 (the Federal Employees' Retirement System), whichever is applicable, and bring himself within the purview of this section. A Director who elects coverage under this section shall be deemed an 'employee' for purposes of chapter 84 of title 5, subchapter III, regardless of whether he has waived the coverage of chapter 83, subchapter III, or chapter 84. Waiver of coverage under chapter 83, subchapter III, and election of this section shall not operate to foreclose to the Director, upon separation from service other than by retirement, such opportunity as the law may provide to secure retirement credit under chapter 83 for service as Director by depositing with interest the amount required by section 8334 of title 5. A Director who waives coverage under chapter 84 and elects this section may secure retirement credit under chapter 84 for service as Director by depositing with interest 1.3 percent of basic pay for service from January 1, 1984, through December 31, 1986, and the amount referred to in section 8422(a) of title 5, for service after December 31, 1986. Interest shall be computed under section 8334(e) of title 5.".

(2) Section 627(b) is amended, following the words *"Provided, however,"*, to read as follows:

"That the Director, upon written notice filed with the Director of the Administrative Office of the United States Courts within 6 months after the date on which he takes office, may waive coverage under chapter 83 of title 5, subchapter III (the Civil Service Retire-

ment System) or chapter 84 of title 5 the Federal Employees' Retirement System), whichever is applicable, and elect coverage under the retirement and disability provisions of this section. A Director who elects coverage under this section shall be deemed an 'employee' for purposes of chapter 84 of title 5, subchapter III, regardless of whether he has waived the coverage of chapter 83, subchapter III, or chapter 84: *And provided further,* That upon his nonretirement separation from the Federal Judicial Center, waiver of coverage under chapter 83, subchapter III, and election of this section shall not operate to foreclose to the Director such opportunity as the law may provide to secure retirement credit under chapter 83 for service as Director by depositing with interest the amount required by section 8334 of title 5. A Director who waives coverage under chapter 84 and elects this section may secure retirement credit under chapter 84 for service as Director by depositing with interest 1.3 percent of basic pay for service from January 1, 1984, through December 31, 1986, and the amount referred to in section 8422(a) of title 5, for service after December 31, 1986. Interest shall be computed under section 8334(e) of title 5.". 102 STAT. 4667

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to persons holding the offices of Director of the Administrative Office of the United States Courts, Director of the Federal Judicial Center, and Administrative Assistant to the Chief Justice on the date of enactment of this title. 28 USC 611 note.

SEC. 1007. JUDICIAL DISQUALIFICATION AMENDMENT.

Section 455 is amended by adding at the end thereof the following:

"(f) Notwithstanding the preceding provisions of this section, if any justice, judge, magistrate, or bankruptcy judge to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the justice, judge, magistrate, bankruptcy judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.".

SEC. 1008. INCENTIVE AWARDS.

Section 604(a), as amended by this Act, is further amended—

(1) by redesignating the second paragraph (14) through paragraph (19) as paragraphs (15) through (20); and

(2) by inserting after paragraph (20) the following:

"(21) Establish a program of incentive awards for employees of the judicial branch of the United States Government, other than any judge who is entitled to hold office during good behavior;".

SEC. 1009. WAIVER OF CLAIMS FOR OVERPAYMENT OF JUDICIAL PAY AND ALLOWANCES.

(a) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Section 5584 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "or" at the end of paragraph (1); 102 STAT. 4668

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new paragraph:

"(3) the Director of the Administrative Office of the United States Courts when the claim is in an amount aggregating not more than $10,000 and involves an officer or employee of the Administrative Office of the United States Courts, the Federal Judicial Center, or any of the courts set forth in section 610 of title 28."; and

(2) in subsection (g)—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(6) the Administrative Office of the United States Courts, the Federal Judicial Center, and any of the courts set forth in section 610 of title 28.

For purposes of this section, the Director of the Administrative Office of the United States Courts shall be the head of the agency in the case of those entities set forth in paragraph (6) of this subsection.".

5 USC 5584 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any claim arising before the date of the enactment of this Act which is pending on such date, and to any claim which arises on or after such date of enactment.

SEC. 1010. COURT SECURITY.

Section 604(a) is further amended by inserting the following new paragraph before paragraph (23), as redesignated by this Act:

"(22) Receive and expend, either directly or by transfer to the United States Marshals Service or other Government agency, funds appropriated for the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress/egress control, inspection of packages, directed security patrols, and other similar activities;".

SEC. 1011. TRAVEL REIMBURSEMENT.

Section 604(a)(7) is amended by inserting a comma in lieu of the semicolon at the end thereof and adding thereafter the following: "without regard to the per diem allowances and amounts for reimbursement of actual and necessary expenses established by the Administrator of General Services under section 5702 of title 5: *Provided*, That the reimbursement of subsistence expenses may not exceed that authorized by the Director for judges of the United States under section 456 of this title;".

SEC. 1012. CLAIMS COURT FEES.

(a) INCREASE IN CLAIMS COURT FILING FEES.—(1) Section 2520 is amended by striking out "$60" and inserting in lieu thereof "$120".

Effective date. 28 USC 2520 note.

(2) The amendment made by this subsection shall take effect 30 days after the date of enactment of this title.

(b) REPORT ON OTHER FEES.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall submit a report to the Congress on the actual costs of filing actions in the district courts of the United States.

102 STAT. 4669

SEC. 1013. CORPORATE VENUE.

(a) IN GENERAL.—Section 1391(c) is amended to read as follows:

"(c) For purposes of venue under this chapter, a defendant that is a corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced. In a State which has more than one judicial district and in which a defendant that is a corporation is subject to personal jurisdiction at the time an action is commenced, such corporation shall be deemed to reside in any district in that State within which its contacts would be sufficient to subject it to personal jurisdiction if that district were a separate State, and, if there is no such district, the corporation shall be deemed to reside in the district within which it has the most significant contacts.".

28 USC 1391 note.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect 90 days after the date of enactment of this title.

SEC. 1014. METHOD OF RECORDING.

Paragraph (7) of section 636(c) is amended to read as follows:

"(7) The magistrate shall, subject to guidelines of the Judicial Conference, determine whether the record taken pursuant to this section shall be taken by electronic sound recording, by a court reporter, or by other means.".

SEC. 1015. LOCATION OF CHAMBERS OF CIRCUIT JUDGES.

Section 462(c) is amended by striking out "where Federal facilities are available" and inserting in lieu thereof "within the circuit other than where regular sessions of court are authorized by law to be held,".

SEC. 1016. IMPROVEMENTS IN REMOVAL PROCEDURE.

(a) ACTIONS REMOVABLE GENERALLY.—Section 1441(a) is amended by adding at the end thereof the following new sentence: "For purposes of removal under this chapter, the citizenship of defendants sued under fictitious names shall be disregarded.".

(b) PROCEDURE FOR REMOVAL.—Section 1446 is amended—

(1) by amending subsection (a) to read as follows:

"(a) A defendant or defendants desiring to remove any civil action or criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.";

(2) in subsection (b)—

(A) by striking out "petition for removal" each place it appears and inserting in lieu thereof "notice of removal"; and

(B) in the second paragraph by striking out the period at the end thereof and inserting in lieu thereof ", except that a case may not be removed on the basis of jurisdiction conferred by section 1332 of this title more than 1 year after commencement of the action."; and

102 STAT. 4670

(3) by striking out subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(c) PROCEDURE AFTER REMOVAL GENERALLY.—Section 1447 is amended—

(1) by amending subsection (c) to read as follows:

"(c) A motion to remand the case on the basis of any defect in removal procedure must be made within 30 days after the filing of the notice of removal under section 1446(a). If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded. An order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal. A certified copy of the order of remand shall be mailed by the clerk to the clerk of the State court. The State court may thereupon proceed with such case."; and

(2) by adding at the end thereof the following new subsection:

"(e) If after removal the plaintiff seeks to join additional defendants whose joinder would destroy subject matter jurisdiction, the court may deny joinder, or permit joinder and remand the action to the State court.".

SEC. 1017. COST-OF-LIVING ADJUSTMENTS FOR JUDICIAL SURVIVORS' ANNUITIES.

(a) IN GENERAL.—Section 376(m) is amended to read as follows:

"(m) Each time that an increase is made under section 8340(b) of title 5 in annuities paid under subchapter III of chapter 83 of such title, each annuity payable from the Judicial Survivors' Annuities

Fund shall be increased at the same time by the same percentage by which annuities are increased under that section.".

28 USC 376 note.

(b) INCREASE FOR EXISTING ANNUITANTS.—Each annuity payable from the Judicial Survivors' Annuities Fund under section 376 of title 28, United States Code, on the date of the enactment of this title shall be increased by 10 percent, effective on such date of enactment.

28 USC 376 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to increases in annuities which are made under section 8340(b) of title 5, United States Code, on or after the date of enactment of this title.

SEC. 1018. ELIMINATION OF CIRCUIT EXECUTIVE BOARD OF CERTIFICATION PROCEDURE.

Section 332 is amended—

(1) in subsection (e) by striking out "executive from among persons who shall be certified by the Board of Certification." and inserting in lieu thereof "executive. In appointing a circuit executive, the judicial council shall take into account experience in administrative and executive positions, familiarity with court procedures, and special training."; and

(2) in subsection (f) by striking out the first paragraph and by designating the remaining paragraphs as paragraphs (1), (2), (3), and (4), respectively.

SEC. 1019. APPEALS UNDER TITLE 9, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 1 of title 9, United States Code, is amended by adding at the end thereof the following new section:

102 STAT. 4671

"§ 15. Appeals

"(a) An appeal may be taken from—

"(1) an order—

"(A) refusing a stay of any action under section 3 of this title,

"(B) denying a petition under section 4 of this title to order arbitration to proceed,

"(C) denying an application under section 206 of this title to compel arbitration,

"(D) confirming or denying confirmation of an award or partial award, or

"(E) modifying, correcting, or vacating an award;

"(2) an interlocutory order granting, continuing, or modifying an injunction against an arbitration that is subject to this title; or

"(3) a final decision with respect to an arbitration that is subject to this title.

"(b) Except as otherwise provided in section 1292(b) of title 28, an appeal may not be taken from an interlocutory order—

"(1) granting a stay of any action under section 3 of this title;

"(2) directing arbitration to proceed under section 4 of this title;

"(3) compelling arbitration under section 206 of this title; or

"(4) refusing to enjoin an arbitration that is subject to this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"15. Appeals.".

Copyrights.

SEC. 1020. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 28.—

(1) Section 332(c) is amended by striking out "semiannually" and inserting in lieu thereof "semiannual".

(2) Section 604(a)(2) is amended by striking out "quarterly" and inserting in lieu thereof "semiannually".

(3) Section 1295(a)(1) is amended by inserting ", exclusive rights in mask works," after "copyrights".

(4)(A) Section 1338 is amended by adding at the end the following:

"(c) Subsections (a) and (b) apply to exclusive rights in mask works under chapter 9 of title 17 to the same extent as such subsections apply to copyrights.".

(B) The section heading for section 1338 is amended to read as follows:

"§ 1338. Patents, plant variety protection, copyrights, mask works, trade-marks, and unfair competition".

(5) Section 1400(a) is amended by inserting "or exclusive rights in mask works" after "copyrights".

(6) Section 1498 is amended by adding at the end the following:

"(e) Subsections (b) and (c) of this section apply to exclusive rights in mask works under chapter 9 of title 17 to the same extent as such subsections apply to copyrights.".

102 STAT. 4672

(7) The table of sections at the beginning of chapter 85 is amended—

(A) in the item relating to section 1330 by striking out "Action" and inserting in lieu thereof "Actions";

(B) in the item relating to section 1331 by inserting a period after "question";

(C) by amending the item relating to section 1338 to read as follows:

"1338. Patents, plant variety protection, copyrights, mask works, trade-marks, and unfair competition.";

and

(D) by amending the item relating to section 1343 to read as follows:

"1343. Civil rights and elective franchise.".

(8) The item relating to section 1914 in the table of sections at the beginning of chapter 123 is amended by striking out "courts" and inserting in lieu thereof "court".

(9) The table of sections for chapter 17 is amended by amending the item relating to section 376 to read as follows:

"376. Annuities for survivors of certain judicial officials of the United States.".

(b) OTHER AMENDMENTS.—Section 912 of title 17, United States Code, is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

SEC. 1021. CONFIGURATION OF FLORIDA DISTRICTS.

(a) MIDDLE AND SOUTHERN DISTRICTS.—Section 89 is amended—

(1) in subsection (b)—

(A) by inserting "Collier," after "Clay,";

(B) by inserting "Glades," after "Flagler,"; and

(C) by inserting "Hendry," after "Hardee,"; and

(2) in subsection (c) by striking "Collier," "Glades," and "Hendry,".

(b) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect 90 days after the date of enactment of this title. 28 USC 89 note.

(2) The amendments made by subsection (a) shall apply to any action commenced in the United States District Court for the Middle District of Florida, or in the United States District Court for the Southern District of Florida, on or after the effective date of this title, and shall not affect any action pending in either such court on such effective date.

(c) JURIES.—The amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, empaneled, or actually serving on the effective date of this title. 28 USC 89 note.

SEC. 1022. SERVICE OF ARTICLE III JUDGES ON TERRITORIAL COURTS.

Chapter 13 is amended by—

(1) adding at the end thereof the following:

"§ 297. Assignment of judges to courts of the freely associated compact states

"(a) The Chief Justice or the chief judge of the United States Court of Appeals for the Ninth Circuit may assign any circuit or
102 STAT. 4673 district judge of the Ninth Circuit, with the consent of the judge so assigned, to serve temporarily as a judge of any duly constituted court of the freely associated compact states whenever an official duly authorized by the laws of the respective compact state requests such assignment and such assignment is necessary for the proper dispatch of the business of the respective court.

"(b) The Congress consents to the acceptance and retention by any judge so authorized of reimbursement from the countries referred to in subsection (a) of all necessary travel expenses, including transportation, and of subsistence, or of a reasonable per diem allowance in
Reports. lieu of subsistence. The judge shall report to the Administrative Office of the United States Courts any amount received pursuant to this subsection."; and

(2) amending the table of sections by adding at the end thereof the following:

"297. Assignment of judges to courts of the freely associated compact states.".

SEC. 1023. SALARIES OF UNITED STATES CLAIMS COURT JUDGES.

Section 172(b) is amended to read as follows:

"(b) Each judge shall receive a salary at the rate of pay, and in the same manner, as judges of the district courts of the United States.".

Approved November 19, 1988.

LEGISLATIVE HISTORY—H.R. 4807:

HOUSE REPORTS: No. 100-889, Pt. 1 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 13, considered and passed House.
Oct. 14, considered and passed Senate, amended.
Oct. 19, House concurred in Senate amendment.

REVENUE ACT

Public Law 100-647
100th Congress

102 STAT. 3342

An Act

To make technical corrections relating to the Tax Reform Act of 1986, and for other purposes.

Nov. 10, 1988
[H.R. 4333]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Technical and Miscellaneous Revenue Act of 1988.
26 USC 1 note.

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Technical and Miscellaneous Revenue Act of 1988".

(b) DEFINITIONS.—For purposes of this Act—

(1) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) REFORM ACT.—Except where incompatible with the intent, the term "Reform Act" means the Tax Reform Act of 1986.

(c) CLERICAL AMENDMENT.—Paragraph (29) of section 7701(a) of the 1986 Code is amended by striking out "of 1954" and inserting in lieu thereof "of 1986".

(d) TABLE OF CONTENTS.—

TITLE I—TECHNICAL CORRECTIONS TO TAX REFORM ACT OF 1986

Sec. 1001. Amendments related to title I of the Reform Act.
Sec. 1002. Amendments related to title II of the Reform Act.
Sec. 1003. Amendments related to title III of the Reform Act.
Sec. 1004. Amendments related to title IV of the Reform Act.
Sec. 1005. Amendments related to title V of the Reform Act.
Sec. 1006. Amendments related to title VI of the Reform Act.
Sec. 1007. Amendments related to title VII of the Reform Act.
Sec. 1008. Amendments related to title VIII of the Reform Act.
Sec. 1009. Amendments related to title IX of the Reform Act.
Sec. 1010. Amendments related to title X of the Reform Act.
Sec. 1011. Amendments related to parts I and II of subtitle A of title XI of the Reform Act.
Sec. 1011A. Amendments related to parts III and IV of subtitle A of title XI of the Reform Act.
Sec. 1011B. Amendments related to subtitles B and C of title XI of the Reform Act.
Sec. 1012. Amendments related to title XII of the Reform Act.
Sec. 1013. Amendments related to title XIII of the Reform Act.
Sec. 1014. Amendments related to title XIV of the Reform Act.
Sec. 1015. Amendments related to title XV of the Reform Act.
Sec. 1016. Amendments related to title XVI of the Reform Act.
Sec. 1017. Amendments related to title XVII of the Reform Act.
Sec. 1018. Amendments related to title XVIII of the Reform Act.
Sec. 1019. Effective date.

TITLE II—AMENDMENTS RELATED TO TAX PROVISIONS IN OTHER LEGISLATION

Sec. 2001. Amendments related to Superfund Revenue Act of 1986.
Sec. 2002. Amendments related to Harbor Maintenance Revenue Act of 1986.
Sec. 2003. Amendments related to Omnibus Budget Reconciliation Act of 1986.
Sec. 2004. Amendments related to the Revenue Act of 1987.
Sec. 2005. Amendments related to Pension Protection Act and full funding limitations.
Sec. 2006. Amendments related to section 9201 of the Omnibus Budget Reconciliation Act of 1987.

102 STAT. 3343

TITLE III—ADDITIONAL SIMPLIFICATION AND CLARIFICATION PROVISIONS

Subtitle A—Diesel Fuel Excise Tax Collection and Exemption Procedures

Sec. 3001. Tax-free purchases of certain fuels.
Sec. 3002. Expedited refund for certain fuels used in nontaxable uses.
Sec. 3003. Marine retailers treated as producers.

Subtitle B—Health Care Continuation Rules

Sec. 3011. Failure to satisfy continuation requirements of group health plans.

Subtitle C—Employee Benefit Nondiscrimination Rules

Sec. 3021. Modifications to discrimination rules applicable to certain employee benefit plans.

Subtitle D—Estate and Gift Taxes

Sec. 3031. Estate tax valuation freezes.

Subtitle E—Indian Fishing Rights

Sec. 3041. Federal tax treatment of income derived by Indians from exercise of fishing rights secured by treaty, etc.
Sec. 3042. State tax treatment of income derived by Indians from exercise of fishing rights secured by treaty, etc.
Sec. 3043. Conforming amendments relating to old-age, survivors, and disability insurance program.
Sec. 3044. Effective date; no inference created.

TITLE IV—EXTENSIONS AND MODIFICATIONS OF EXPIRING TAX PROVISIONS

Sec. 4001. Extension and modification of exclusion for employer-provided education assistance.
Sec. 4002. Extension and modification of exclusion of amounts received under group legal services plans.
Sec. 4003. Carryover of post-1987 low-income housing credit dollar amounts permitted.
Sec. 4004. Simplification of rule where partnership holds qualified low-income building.
Sec. 4005. Provisions relating to mortgage revenue bonds and mortgage credit certificates.
Sec. 4006. Extension of certain business energy credits.
Sec. 4007. Extension of credit for increasing research activities.
Sec. 4008. Denial of deduction for 50 percent of amounts allowed as a research credit.
Sec. 4009. Allocation of research and experimental expenditures.
Sec. 4010. Extension and modification of targeted jobs credit.
Sec. 4011. Treatment of publicly offered regulated investment companies under 2-percent floor.
Sec. 4012. Extension and modifications of provisions relating to financial institutions.

TITLE V—REVENUE INCREASE PROVISIONS

Subtitle A—Corporate Estimated Tax Provisions

Sec. 5001. Corporate estimated tax payments.

Subtitle B—Insurance Provisions

Sec. 5011. Limitation on unreasonable mortality and other expense charges under section 7702.
Sec. 5012. Treatment of modified endowment contracts.
Sec. 5013. Valuation of group-term life insurance.
Sec. 5014. Study.

Subtitle C—Loss Transfer Rules for Alaska Native Corporations

Sec. 5021. Repeal of rules permitting loss transfers by Alaska Native Corporations.

Subtitle D—Estate and Gift Tax Provisions

Sec. 5031. Valuation tables.
102 STAT. 3344 Sec. 5032. Rate schedule for tax on estates of nonresidents not citizens.
Sec. 5033. Disallowance of marital deduction where spouse is not citizen of United States.

Subtitle E—Long-Term Contract Provisions

Sec. 5041. Long-term contract provisions.

Subtitle F—Tax-Exempt Bond Provisions

Sec. 5051. Treatment of certain pooled financing bonds.
Sec. 5052. Treasury regulations relating to student loan bonds.
Sec. 5053. Restrictions on bonds used to provide residential rental property for family units.

Subtitle G—Excise Tax Provisions

Sec. 5061. Imposition of excise tax on manufacture or importation of pipe tobacco.
Sec. 5062. Modification of distilled spirits tax credit for flavors content.

Subtitle H—Other Revenue Increase Provisions

Sec. 5071. Increase in penalty for bad checks.
Sec. 5072. Time for payment of tax on reversion of pension plan assets.
Sec. 5073. Denial of deduction for certain residential telephone service.
Sec. 5074. Partnership reporting of unrelated business taxable income.
Sec. 5075. Options subject to wash sale rules.
Sec. 5076. Interest charge on installment sales of certain property.
Sec. 5077. Applications of net operating loss rules to stock acquired by an employee stock ownership plan.

TITLE VI—OTHER SUBSTANTIVE REVENUE PROVISIONS

Subtitle A—Provisions Relating to Individuals

Sec. 6001. Treatment of certain amounts paid to or for the benefit of an institution of higher education.
Sec. 6002. Nonrecognition of gain where one spouse dies before occupying new residence.
Sec. 6003. Meals on certain vessels and offshore oil platforms exempt from 80 percent limitation on deduction for meals.
Sec. 6004. Treatment of certain innocent spouses.
Sec. 6005. Interim treatment of certain amounts awarded to Christa McAuliffe Fellows.
Sec. 6006. Election to claim certain unearned income of child on parent's return.
Sec. 6007. Jury duty pay remitted to an individual's employer allowed as a deduction in computing gross income.
Sec. 6008. Business use of automobiles by rural mail carriers.
Sec. 6009. Exclusion from gross income for income from United States savings bonds used to pay tuition and fees.
Sec. 6010. Modification of additional exemption for student dependents.
Sec. 6011. Principal residence capital gains exclusion.

Subtitle B—Provisions Relating to Accounting and Agriculture

Sec. 6026. Amendments to uniform capitalization rules.
Sec. 6027. Treatment of single purpose agricultural or horticultural structures.
Sec. 6028. Treatment of property used in the farming business.
Sec. 6029. Treatment of certain trees.
Sec. 6030. One-year deferral of proceeds from live-stock sold on account of drought.
Sec. 6031. Certain repledges permitted.
Sec. 6032. Treatment of indirect holdings through trusts under section 448 of the 1986 Code.
Sec. 6033. Disaster assistance act payments included in special rule for taxable year of inclusion.

Subtitle C—Pensions and Employee Benefits

Sec. 6051. Provisions relating to benefits under discriminatory plans.
Sec. 6052. Modifications of discrimination rules applicable to certain annuity contracts.
Sec. 6053. Required distribution beginning date for governmental and church plans.
Sec. 6054. Section 415 limitation for State and local plans.
Sec. 6055. Minimum participation standards.
Sec. 6056. Study of effect of minimum participation rule on employers required to provide certain retirement benefits.
Sec. 6057. Prohibition on collectibles not to include State coins.
Sec. 6058. Application of fundings rules to multiple employer plans.
Sec. 6059. Application of section 415 limitations to police and firefighters. 102 STAT. 3345
Sec. 6060. Excise tax on disposition of stock by an ESOP not to apply to certain forced dispositions.
Sec. 6061. Loans to acquire employer securities.
Sec. 6062. Effective date of section 415 limitations of collectively bargained agreements.
Sec. 6063. Treatment of pre-1989 elections for dependent care assistance under cafeteria plans.
Sec. 6064. Modifications to section 457.
Sec. 6065. Exception for governmental plans.
Sec. 6066. Air transportation of cargo and of passengers treated as same service for purposes of fringe benefits inclusion.
Sec. 6067. Special rule for applying spin-off rules to bridge banks.
Sec. 6068. Income averaging allowed to lump-sum distributions of alternate payees.
Sec. 6069. Increase in employer reversion tax.
Sec. 6070. Definition of part-time employee for purposes of section 89.
Sec. 6071. Rural telephone cooperatives permitted to have qualified cash or deferred arrangements.
Sec. 6072. Study of treatment of certain technical personnel.

Subtitle D—Insurance Provisions

Sec. 6076. Treatment of certain workers' compensation funds.
Sec. 6077. Special estimated tax payments.

Sec. 6078. Church self-funded death benefit plans treated as life insurance.
Sec. 6079. Treatment of structured settlements.
Sec. 6080. Variable contracts invested in government securities permitted.

Subtitle E—Excise Tax Provisions

Sec. 6101. Authority to prescribe tolerances for the volume of wine in bottles for purposes of the excise tax on wine.
Sec. 6102. Wholesale distributors to administer claims for refund of gasoline tax.
Sec. 6103. Authority to exempt articles from excise tax on heavy trucks and trailers where benefit accrues to United States.
Sec. 6104. Application of reduced gasoline tax rate to blenders.
Sec. 6105. Certain educational institutions exempt from user fees on permits for industrial use of specially denatured distilled spirits.
Sec. 6106. Small procedures exempt from occupational tax on distilled spirits plants.
Sec. 6107. Quarterly payment of archery excise tax.
Sec. 6108. Extension of time for enacting authorizing legislation relating to the oil spill liability trust fund.
Sec. 6109. Donated cargo exempt from harbor maintenance tax.
Sec. 6110. Relay cargo.
Sec. 6111. Clarification of meaning of manufacture under truck excise tax.

Subtitle F—Foreign Provisions

Sec. 6126. Dual resident companies.
Sec. 6127. Election to be treated as qualified electing fund to be made by taxpayer.
Sec. 6128. Treatment of certain United States affiliate obligations.
Sec. 6129. Treatment of certain insurance branches of foreign corporations.
Sec. 6130. Treatment of certain instruments under foreign currency rules.
Sec. 6131. Treatment of insurance companies under chain deficit rule.
Sec. 6132. Virgin Islands treated as qualified Caribbean basin country.
Sec. 6133. Treatment of certain United States obligations held by possession banks
Sec. 6134. Treatment of certain gambling winnings received by nonresident aliens.
Sec. 6135. Election to be treated as domestic corporation.
Sec. 6136. Tax exemption for ENJEBI community trust fund.
Sec. 6137. Application of section 912 to judicial employees.
Sec. 6138. Study of definition of United States resident.
Sec. 6139. Sunset of treaty provisions.
Sec. 6140. Treatment of certain awards by the district court of Guam.

Subtitle G—Estate Tax Provisions

Sec. 6151. Treatment of certain rents under section 2032A.
Sec. 6152. Clarification of treatment of joint and survivor annuities under Qtip rules.

Subtitle H—Tax-Exempt Bond Provisions

Sec. 6176. Clarification of small issue bond definition of manufacturing facility.
Sec. 6177. Rules applicable to tax and revenue anticipation bonds.
Sec. 6178. Amendment to mortgage bond purchase price regulations.
Sec. 6179. Application of security interest test to bond financing of hazardous waste clean-up activities.
Sec. 6180. Tax-exempt financing for certain rail facilities.
Sec. 6181. Rules relating to rebate on earnings on bona fide debt service fund.
Sec. 6182. Bonds issued by volunteer fire departments.
Sec. 6183. Disregard of pooled financings in determination of qualification for small issuer exception.

Subtitle I—Provisions Relating to Exempt Organizations

Sec. 6201. Certain games of chance not treated as unrelated trade or business.
Sec. 6202. Purchase of insurance by cooperative hospital service organizations.
Sec. 6203. Cancellation of certain debts originated by or guaranteed by the United States not taken into account in determining tax exempt status of certain organizations.
Sec. 6204. Determination of operating foundation status for certain purposes.

Subtitle J—Taxpayer Rights and Procedures

Sec. 6226. Short title.

PART I—TAXPAYER RIGHTS

Sec. 6227. Disclosure of rights of taxpayers.
Sec. 6228. Procedures involving taxpayer interviews.
Sec. 6229. Taxpayers may rely on written advice of Internal Revenue Service.
Sec. 6230. Taxpayer assistance orders.
Sec. 6231. Basis for evaluation of Internal Revenue Service employees.
Sec. 6232. Procedures relating to Internal Revenue Service regulations.
Sec. 6233. Content of tax due, deficiency, and other notices.
Sec. 6234. Installment payment of tax liability.
Sec. 6235. Assistant Commissioner for taxpayer services.

PART II—LEVY AND LIEN PROVISIONS

Sec. 6236. Levy and distraint.
Sec. 6237. Review of jeopardy levy and assessment procedures.
Sec. 6238. Administrative appeal of liens.

PART III—PROCEEDINGS BY TAXPAYERS

Sec. 6239. Awarding costs and certain fees in administrative and court proceedings.
Sec. 6240. Civil cause of action for damages sustained due to failure to release lien.
Sec. 6241. Civil cause of action for damages sustained due to certain unauthorized actions by internal revenue service.
Sec. 6242. Assessable penalty for improper disclosure or use of information by preparers of returns.

PART IV—TAX COURT JURISDICTION

Sec. 6243. Jurisdiction to restrain certain premature assessments.
Sec. 6244. Jurisdiction to enforce overpayment determinations.
Sec. 6245. Jurisdiction to review certain sales of seized property.
Sec. 6246. Jurisdiction to redetermine interest on deficiencies.
Sec. 6247. Jurisdiction to modify decisions in certain estate tax cases.

Subtitle K—Other Administrative Provisions

Sec. 6251. Exchange of information.
Sec. 6252. Provisions relating to previously required studies.
Sec. 6253. Repeal of secretarial authority to prescribe class lives.
Sec. 6254. Amendments related to Crude Oil Windfall Profit Tax Act of 1980.

Subtitle L—Provisions Relating to Corporations and Personal Holding Companies

Sec. 6276. Authority to pay refunds to certain fiduciaries of insolvent members of affiliated groups.
Sec. 6277. Application of net operating loss limitations to bankruptcy reorganizations.
Sec. 6278. Application of section 7503 of 1986 Code for purposes of section 10222(b) of Revenue Act of 1987.
Sec. 6279. Interest earned by brokers or dealers not taken into account as personal holding company income.
Sec. 6280. Treatment of certain bank holding companies.
Sec. 6281. Authority to waive appraisal requirement for certain charitable contributions of property.
Sec. 6282. Distributions by cooperative housing corporations. 102 STAT. 3347

Subtitle M—Miscellaneous Provisions

Sec. 6301. Repeal of limit on long-term bonds.
Sec. 6302. One-year extension of credit for producing fuel from a nonconventional source.
Sec. 6303. Certain discharge of debt income not included in adjusted book income.
Sec. 6304. Nonconventional fuels credit.
Sec. 6305. Treatment of certain family services providers.

TITLE VII—RAILROAD UNEMPLOYMENT AND RETIREMENT PROGRAMS

Sec. 7001. Short title.
Sec. 7002. References to Railroad Unemployment Insurance Act.

Subtitle A—Financing Provisions

Sec. 7101. Amendments relating to definition of "compensation".
Sec. 7102. Contribution adjustments.
Sec. 7103. Administrative expenses.
Sec. 7104. Notification to employer.
Sec. 7105. Annual report.
Sec. 7106. Amendments relating to railroad unemployment repayment tax.
Sec. 7107. GAO study of fraud and payment errors.
Sec. 7108. One-year extension of time limit for filing report by Commission on Railroad Retirement Reform.

Subtitle B—Benefit and Other Adjustments

Sec. 7201. Waiting period for benefits and benefit increases.
Sec. 7202. Qualifying condition.
Sec. 7203. Increase in maximum permitted subsidiary remuneration.

Subtitle C—Retirement Act Amendments

Sec. 7301. Additional lump sum payment in certain cases.
Sec. 7302. Deletion of last person service as a disqualification.
Sec. 7303. Earnings of disability annuitants.
Sec. 7304. Allowance of credit for military service.

TITLE VIII—AMENDMENTS RELATING TO SOCIAL SECURITY ACT PROGRAMS

Subtitle A—Old-Age, Survivors, and Disability Insurance and Related Provisions

Sec. 8001. Interim disability benefits in cases of delayed final decisions.
Sec. 8002. Application of earnings test in year of individual's death.

Sec. 8003. Phaseout of reduction in windfall benefits.
Sec. 8004. Denial of benefits to individuals deported or ordered deported on the basis of associations with the Nazi Government of Germany during World War II.
Sec. 8005. Modifications in the term of office of public members of the board of trustees of the social security trust funds.
Sec. 8006. Continuation of disability benefits during appeal.
Sec. 8007. Exemption from social security for employers and employees who are both members of certain religious faiths.
Sec. 8008. Blood donor locator service.
Sec. 8009. Requirement of social security account number as a condition for receipt of social security benefits.
Sec. 8010. Substitution of certificate of election for application to establish entitlement for certain reduced widow's and widower's benefits.
Sec. 8011. Calculation of the windfall benefit guarantee amount based on pension amounts payable in the first month of concurrent entitlement rather than concurrent eligibility.
Sec. 8012. Consolidation of reports on continuing disability reviews.
Sec. 8013. Exclusion of employees separated from employment before January 1, 1989, from rule including as wages taxable under FICA certain payments for group-term life insurance.
Sec. 8014. Clarification of applicability of Government pension offset to certain Federal employees.
Sec. 8015. Amendments to rules governing social security coverage of Federal employment.
Sec. 8016. Technical corrections in OASDI provisions.
Sec. 8017. Certain cash wages paid to seasonal agricultural laborers excluded from OASDI coverage.
102 STAT. 3348 Sec. 8018. Certain employer pension contributions not included in FICA wage base.
Sec. 8019. Reports regarding certain disability-related benefits.

Subtitle B—Public Assistance Provisions

Sec. 8101. Extension of prohibition against implementation of certain proposed regulations.
Sec. 8102. Review of policy governing use of AFDC funds to meet emergency needs of families eligible for AFDC through emergency assistance or special needs payments; report to Congress.
Sec. 8103. Disregard of certain housing assistance payments in determining income and resources under SSI program.
Sec. 8104. Foster care independent living initiatives.
Sec. 8105. Technical corrections to Family Support Act of 1988.

Subtitle C—National Commission on Children

Sec. 8201. Delay in reporting date for National Commission on Children.

Subtitle D—Unemployment Compensation

Sec. 8301. Self-employment demonstration project.

Subtitle E—Medicare and Medicaid

Part I—Provisions Relating to Part A of Medicare

Sec. 8401. Extension of disproportionate share provisions.
Sec. 8402. Maintenance of bad debt collection policy.
Sec. 8403. Application of wage indices in case of areas affected by section 4005(a)(1) of OBRA of 1987.
Sec. 8404. Demonstration projects with respect to chronic ventilator-dependent units in hospitals.
Sec. 8405. Election of personnel policy for PROPAC employees.

Part II—Relating to Parts A and B of Medicare Program

Sec. 8411. Elimination of waivers of 50:50 rule for HMO enrollment.
Sec. 8412. Increase in authorization for the patient outcome assessment research program.
Sec. 8413. Delay in reporting deadline for the United States Bipartisan Commission on Comprehensive Health Care.

Part III—Provisions Relating to Part B of Medicare

Sec. 8421. Budget neutrality adjustment for certified registered nurse anesthetists.
Sec. 8422. Coverage of psychologists' services when provided off-site as part of a treatment plan.
Sec. 8423. Nonapplication of certain requirements to physical therapists in independent practice.
Sec. 8424. Functions of physician payment review commission.
Sec. 8425. Moratorium on laboratory payment demonstration extended.
Sec. 8426. Study of trip fees for clinical laboratories.

Part IV—Provisions Relating to Medicaid

Sec. 8431. Delay in issuance of final regulations concerning the use of voluntary contributions and provider-paid taxes by States to receive Federal matching funds.
Sec. 8432. Medicaid long-term care waiver program.

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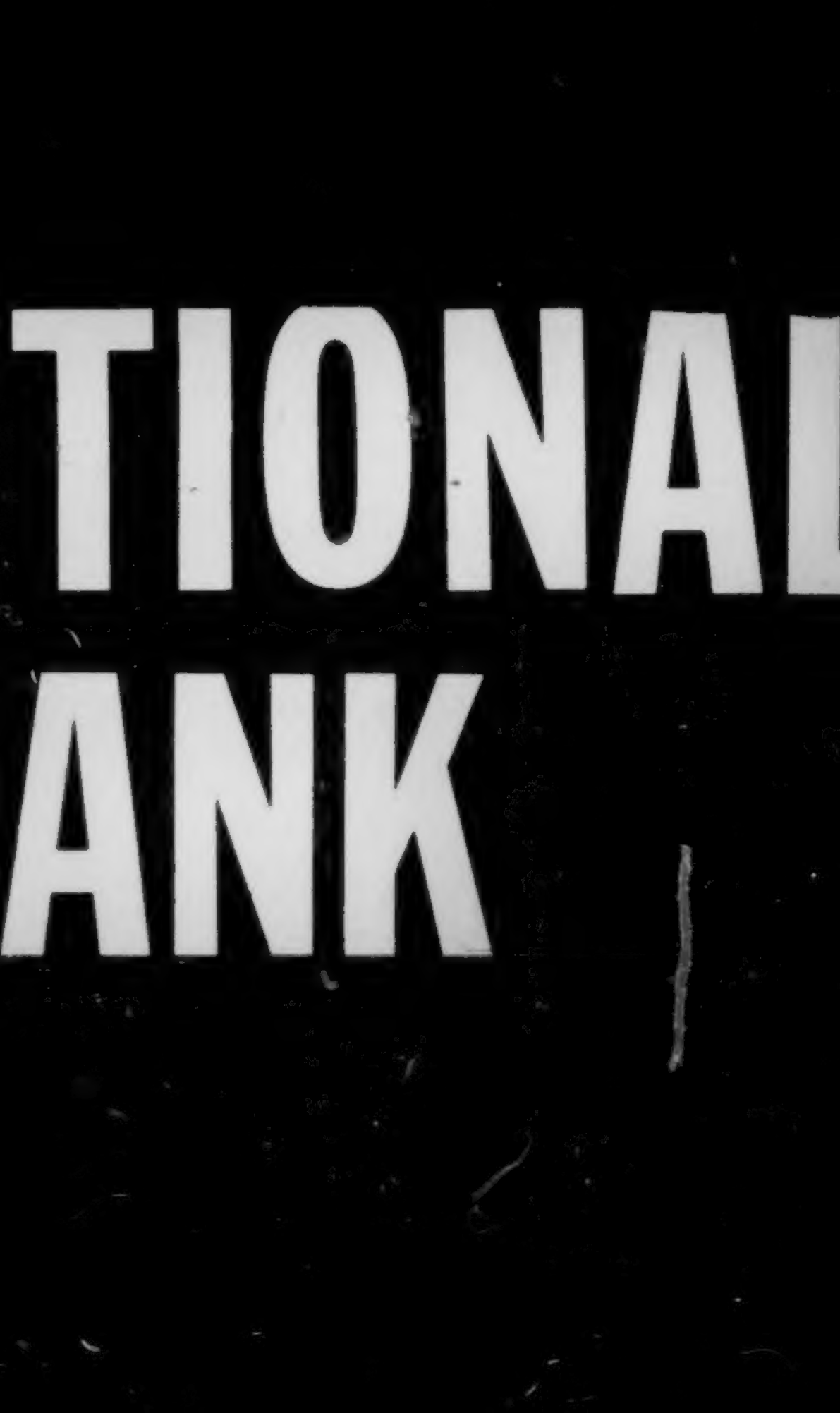
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Sec. 8433. Extension of time period for submission of correction and reduction plans for certain intermediate care facilities for the mentally retarded.
Sec. 8434. Correction relating to medicare buy-in.
Sec. 8435. Clarification of Federal financial participation for case-management services.
Sec. 8436. Determination of premium amounts for extended medical assistance.

TITLE IX—TRADE PROVISIONS

Sec. 9001. Trade technical amendments.
Sec. 9002. Foreign trade zones.
Sec. 9003. Report on the small business innovation research program.
Sec. 9004. Extension of certain existing suspensions of duty and duty reductions.

TITLE X—MANASSAS NATIONAL BATTLEFIELD PARK

Sec. 10001. Short title.
Sec. 10002. Addition to Manassas National Battlefield Park.
Sec. 10003. Visual protection.
Sec. 10004. Highway relocation.

LEGISLATIVE HISTORY—H.R. 4333 (S. 2238):

HOUSE REPORTS: No. 100-795 (Comm. on Ways and Means) and No. 100-1104 (Comm. of Conference).
SENATE REPORTS: No. 100-445 accompanying S. 2238 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 4, considered and passed House.
Oct. 6, 7, S. 2238 considered in Senate.
Oct. 11, H.R. 4333 considered and passed Senate, amended.
Oct. 21, House and Senate agreed to conference report.

Public Law 100-252
100th Congress

102 STAT. 18

An Act

To authorize appropriations under the Earthquake Hazards Reduction Act of 1977 for fiscal years 1988, 1989, and 1990.

Feb. 29, 1988
[H.R. 1612]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 7(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(a)) is amended by adding at the end the following:

"(7) There are authorized to be appropriated to the Director, to carry out the provisions of sections 5 and 6 of this Act, $5,778,000 for the fiscal year ending September 30, 1988, $5,788,000 for the fiscal year ending September 30, 1989, and $5,798,000 for the fiscal year ending September 30, 1990.".

(b) Section 7(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(b)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $38,540,000 for the fiscal year ending September 30, 1988; $41,819,000 for the fiscal year ending September 30, 1989; and $43,283,000 for the fiscal year ending September 30, 1990".

(c) Section 7(c) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(c)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $28,235,000 for the fiscal year ending September 30, 1988; $31,634,000 for the fiscal year ending September 30, 1989; and $35,454,000 for the fiscal year ending September 30, 1990".

(d) Section 7(d) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(d)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $525,000 for the fiscal year ending September 30, 1988; $525,000 for the fiscal year ending September 30, 1989; and $525,000 for the fiscal year ending September 30, 1990".

SEC. 2. Section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) is amended by adding at the end the following:

"(j) COST SHARING.—(1) In the case of any State which has voluntarily engaged in cost sharing by matching Federal grants from the Federal Emergency Management Agency for activities under this Act over the three-fiscal-year period ending September 30, 1987, any such cost sharing that may be required for the fiscal year ending September 30, 1988, or the fiscal year ending September 30, 1989, shall be at a level no higher than the State's average level of such cost sharing over such three-year period.

"(2) In the case of any State which has not engaged in cost sharing by matching Federal grants from the Federal Emergency Management Agency for activities under this Act over such three-fiscal-year period—

102 STAT. 19

"(A) no such cost sharing may be required for the fiscal year ending September 30, 1988; and

"(B) any such cost sharing that may be required for the fiscal year ending September 30, 1989, shall be at a level no higher than 25 percent of the cost of the activities involved.

"(3) Nothing in this subsection shall be construed to prevent a State, voluntarily and at its option, from engaging in cost sharing at a level higher than the maximum level which may be required of it under paragraph (1) or (2).".

Approved February 29, 1988.

LEGISLATIVE HISTORY—H.R. 1612:

HOUSE REPORTS: No. 100-89, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-239 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 133 (1987): June 8, considered and passed House.
Dec. 21, considered and passed Senate, amended.
Vol. 134 (1988): Feb. 16, House concurred in Senate amendment.

102 STAT. 2865

Public Law 100-570
100th Congress

An Act

Oct. 31, 1988
[H.R. 4418]

To authorize appropriations for the National Science Foundation, and for other purposes.

National Science Foundation Authorization Act of 1988.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

42 USC 1861 note.

SECTION 1. This Act may be cited as the "National Science Foundation Authorization Act of 1988".

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Congress finds that to strengthen basic research and human resources in science and engineering the programs of the National Science Foundation (hereinafter referred to as the "Foundation") should be adequately funded.

(b) There is authorized to be appropriated to the Foundation $2,050,000,000 for fiscal year 1989, which shall be available for the following categories:

(1) Research and Related Activities, $1,653,500,000, which shall be available for the following subcategories:

(A) Mathematical and Physical Sciences, $507,800,000.

(B) Engineering, $198,000,000.

(C) Biological, Behavioral, and Social Sciences, $288,700,000.

(D) Geosciences, $320,900,000.

(E) Computer and Information Science and Engineering, $162,100,000.

(F) Science and Technology Research Centers, $25,000,000.

(G) Scientific, Technological, and International Affairs, $56,000,000.

(H) Program Development and Management, $95,000,000.

(2) Science and Engineering Education, $175,500,000, of which $17,500,000 shall be available for College Science Instrumentation.

(3) United States Antarctic Program, $141,000,000.
(4) Academic Research Facilities Modernization, $80,000,000.

(c) There is authorized to be appropriated to the Foundation $2,388,000,000 for fiscal year 1990, which shall be available for the following categories:

(1) Research and Related Activities, $1,910,700,000, which shall be available for the following subcategories:
(A) Mathematical and Physical Sciences, $588,500,000.
(B) Engineering, $229,500,000.
(C) Biological, Behavioral, and Social Sciences, $334,600,000.
(D) Geosciences, $372,000,000.
(E) Computer and Information Science and Engineering, $188,000,000.
(F) Science and Technology Research Centers, $30,000,000.
(G) Scientific, Technological, and International Affairs, $65,000,000.
(H) Program Development and Management, $103,100,000.
(2) Science and Engineering Education, $205,300,000.
(3) United States Antarctic Program, $147,000,000.
(4) Academic Research Facilities Modernization, $125,000,000.

102 STAT. 2866

(d) There is authorized to be appropriated to the Foundation $2,782,000,000 for fiscal year 1991, which shall be available for the following categories:

(1) Research and Related Activities, $2,200,200,000, which shall be available for the following subcategories:
(A) Mathematical and Physical Sciences, $681,500,000.
(B) Engineering, $265,800,000.
(C) Biological, Behavioral, and Social Sciences, $387,400,000.
(D) Geosciences, $430,800,000.
(E) Computer and Information Science and Engineering, $217,600,000.
(F) Science and Technology Research Centers, $30,000,000.
(G) Scientific, Technological, and International Affairs, $75,200,000.
(H) Program Development and Management, $111,900,000.
(2) Science and Engineering Education, $240,200,000.
(3) United States Antarctic Program, $154,100,000.
(4) Academic Research Facilities Modernization, $187,500,000.

(e) There is authorized to be appropriated to the Foundation $3,245,000,000 for fiscal year 1992, which shall be available for the following categories:

(1) Research and Related Activities, $2,552,000,000.
(2) Science and Engineering Education, $281,000,000.
(3) United States Antarctic Program, $162,000,000.
(4) Academic Research Facilities Modernization, $250,000,000.

(f) There is authorized to be appropriated to the Foundation $3,505,000,000 for fiscal year 1993, which shall be available for the following categories:

(1) Research and Related Activities, $2,772,000,000.
(2) Science and Engineering Education, $308,000,000.
(3) United States Antarctic Program, $175,000,000.
(4) Academic Research Facilities Modernization, $250,000,000.

(g) Notwithstanding any other provision of this Act—

(1) not less than $5,000,000 of the amount authorized in subsection (b)(2) is authorized only for purposes of teacher training and enhancement and for development of model curriculum tailored for science and mathematics instruction, and instruction in technician training programs, in two-year and community colleges; and

102 STAT. 2867

(2) in allocating funds authorized under this section for planning grants for Science and Technology Centers, the Director of the Foundation (hereinafter referred to as the "Director") shall give due consideration to the need to establish centers in geographic areas of the United States in which there is no nationally recognized research university.

(h)(1) If the total amount appropriated for a program category specified in subsections (b) through (f) of this section is less than the total amount authorized to be appropriated for such category under this section, the portion of such appropriated amount that shall be available for spending for each subcategory of such category, and for each program of such category or subcategory for which a funding floor is specified, shall be determined as follows:

(A) For each subcategory, the amount available for spending shall be equal to the amount specified in subsections (b) through (f) for that subcategory, as multiplied by the funding availability percentage.

(B) For each program of any category or subcategory for which a funding floor is specified, the amount available for spending shall be equal to the amount specified in this section as the floor for that program, as multiplied by the funding availability percentage.

(2) For the purposes of this subsection, the term "funding availability percentage" means the percentage determined by dividing—

(A) the total amount appropriated for a program category specified in subsection (b), (c), (d), (e), or (f) of this section by

(B) the total amount authorized under subsection (b), (c), (d), (e), or (f) for that category.

AVAILABILITY OF APPROPRIATIONS

SEC. 102. Appropriations made under authority provided in section 101 of this Act shall remain available for obligation for periods specified in the Acts making the appropriations.

CONSULTATION AND REPRESENTATION EXPENSES

SEC. 103. From appropriations made under authorizations provided in this Act, not more than $7,500 may be used in each fiscal year for official consultation, representation, or other extraordinary expenses at the discretion of the Director. The determination of the Director will be final and conclusive upon the accounting officers of the Government.

TRANSFER OF FUNDS

SEC. 104. (a) In any given fiscal year, funds may be transferred among the categories listed in section 101, and among subcategories listed in section 101, so long as the net funds transferred to or from any category, or to or from any subcategory, do not exceed 10 percent of the amount authorized for that category or subcategory.

(b) In addition, the Director may propose transfers to or from any category exceeding 10 percent of the amount authorized for that category in section 101, and to or from any subcategory in which the net funds transferred exceed 10 percent of the amount authorized for that subcategory. An explanation of any such proposed transfer must be transmitted in writing to the Committee on Science, Space, and Technology of the House of Representatives, and the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate. The proposed transfer may be made only when 30 calendar days have passed after transmission of such written explanation.

102 STAT. 2868

ADMINISTRATIVE AMENDMENTS

SEC. 105. (a) Section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) is amended by adding at the end thereof the following:

"(k) Portions of Board meetings in which the Board considers proposed Foundation budgets for a particular fiscal year may be closed to the public until the President's budget for that fiscal year has been submitted to the Congress.". Classified information.

(b) Subsection (c) of section 15 of the National Science Foundation Act of 1950 (42 U.S.C. 1874) is repealed.

(c) Section 36(f) of the Science and Technology Equal Opportunities Act (42 U.S.C. 1885c(f)) is amended to read as follows:

"(f) Every two years, the Committee shall prepare and transmit to the Director a report on its activities during the previous two years and proposed activities for the next two years. The Director shall transmit to Congress the report, unaltered, together with such comments as the Director deems appropriate.". Reports.

TEMPORARY PERSONNEL

SEC. 106. Section 14(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1873(a)) is amended by inserting "(1)" immediately after "(a)", and by adding at the end the following new paragraphs:

"(2) The Director may, under the authority provided by paragraph (1) of this subsection and in accordance with such policies as the Board chooses to prescribe, appoint for a limited term, or on a temporary basis, scientists, engineers, and other technical and professional personnel on leave of absence from academic, industrial, or research institutions to work for the Foundation.

"(3) The Foundation may pay, to the extent authorized for certain other Federal employees by section 5723 of title 5, United States Code, travel expenses for any individual appointed for a limited term or on a temporary basis and transportation expenses of his or her immediate family and his or her household goods and personal effects from that individual's residence at the time of selection or assignment to his or her duty station. The Foundation may pay such travel expenses and transportation expenses to the same extent for such an individual's return to the former place of residence from his or her duty station, upon separation from the Federal service following an agreed period of service. The Foundation may also pay a per diem allowance at a rate not to exceed the daily amounts prescribed under section 5702 of title 5, United States Code, to such an individual, in lieu of and when less than transportation expenses of the immediate family and household goods and personal effects, for the period of his or her employment with the Foundation. Notwithstanding any other provision of law, the employer's contribution to any retirement, life insurance, or health benefit plan for an individual appointed for a term of one year or less, which could be extended for no more than one additional year, may be made or reimbursed from appropriations available to the Foundation.". Wages.

BUDGET ESTIMATES

SEC. 107. Section 14 of the National Science Foundation Act of 1950 (42 U.S.C. 1873) is amended by adding at the end the following new subsection:

"(j) Starting with fiscal year 1990, the Foundation shall submit to the Congress in each fiscal year, at the time of the release of the President's budget, a three-year budget estimate for the Foundation. The three-year budget shall include funding estimates for each major activity, including each scientific directorate, the United States Antarctic Program, the Science and Engineering Education Directorate, and the Program Development and Management activity.".

FINANCIAL DISCLOSURE REPORT FOR BOARD MEMBERS

SEC. 108. Section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) is amended by adding at the end the following new subsection:

Classified information.

"(k) Members of the Board shall be required to file a financial disclosure report under title II of the Ethics in Government Act of 1978 (5 U.S.C. App. 92 Stat. 1836), except that such reports shall be held confidential and exempt from any law otherwise requiring their public disclosure.".

EVALUATIONS OF RESEARCH CENTERS

42 USC 1862e.

SEC. 109. In carrying out performance reviews of research centers by the Foundation, the Director shall take such action as may be necessary, consistent with the merit review process of the Foundation, to ensure that—

(1) members of review panels are free from any conflict of interest; and

(2) the conditions of each award to such centers have been fulfilled.

RESEARCH CENTER CONSORTIA

Grants.
42 USC 1862f.

SEC. 110. In Foundation programs making grants to research centers, the Director shall encourage the formation of consortia that include research universities, two-year and four-year colleges, and the private sector.

BUY-AMERICAN REQUIREMENTS

Contracts.
42 USC 1870a.

SEC. 111. (a) The Director shall, to the maximum extent practicable and consistent with current law, award to domestic firms any contracts for the purchase of goods and services intended for direct use by the Foundation.

Reports.

(b) The Director shall, as soon as possible after the date of enactment of this Act, prepare a report on—

(1) the number of Foundation contracts entered into with foreign firms in fiscal year 1988;

(2) the number of such contracts entered into with domestic firms in that fiscal year;

(3) the number of contracts entered into with foreign firms where the Foundation also received a technically acceptable bid from a domestic firm; and

102 STAT. 2870

(4) any steps the Foundation will take to increase the number of contracts awarded to domestic firms.

Such report shall be submitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate.

(c) For the purposes of this section—

(1) the term "domestic firm" means a business entity which is organized under the laws of the United States or the laws of a State, district, commonwealth, territory, or possession of the United States, and which conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

UNDERGRADUATE SCIENCE IMPROVEMENT

20 USC 3911 note.

SEC. 112. (a) The Congress finds that the support of undergraduate science and engineering education is a critical component in a comprehensive national policy intended to ensure the Nation's future supply of scientists and engineers.

Women.
Minorities.
Handicapped persons.

(b) In accordance with the provisions of this Act, the Foundation shall support undergraduate science and engineering activities in instrumentation and laboratory improvement, undergraduate faculty enhancement, undergraduate research opportunities, undergraduate curriculum development, and efforts to encourage the participation of women, minorities, and the disabled in such fields.

(c) In carrying out the provisions of this section, the Foundation shall take into account the special needs of two-year and four-year colleges and universities.

EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH

SEC. 113. (a) The Director shall operate an Experimental Program to Stimulate Competitive Research, the purpose of which is to assist those States that— 42 USC 1862g.

(1) historically have received relatively little Federal research and development funding; and

(2) have demonstrated a commitment to develop their research bases and improve science and engineering research and education programs at their universities and colleges.

(b) A State which has received an initial award under such Program, whether or not the award was received before or after the date of enactment of this Act, shall be eligible for up to 5 years of additional support under the program if that State provides assurances of new matching funds and submits an acceptable new plan for using Program funds and matching funds to build the research capabilities of the State.

COLLEGE AND UNIVERSITY INNOVATION RESEARCH

SEC. 114. The Director shall prepare and submit, not later than March 1, 1989, a report to the Committee on Labor and Human Resources and Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Science, Space, and Technology of the House of Representatives on assisting academic researchers at a wide range of colleges and universities, including smaller institutions and institutions which do not traditionally receive Federal research funds, to pursue high-quality research of economic potential. The report shall— Reports. 102 STAT. 2871

(1) describe the procedures, terms, and conditions necessary for the establishment of a program patterned after the Small Business Innovation Research program to assist college and university faculty to pursue research of economic potential;

(2) analyze the feasibility of establishing funding recoupment mechanisms to offset the cost of such assistance; and

(3) state whether such a program is appropriate and feasible and, if so, the steps the Director shall take to establish and carry out such a program.

EARTHQUAKE ENGINEERING RESEARCH

SEC. 115. (a) The National Academy of Sciences shall conduct a study of earthquake engineering activities being carried out by the Foundation and other Federal agencies under the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.). Such study shall include— 42 USC 7704 note.

(1) an assessment of the adequacy of each agency's current Federal earthquake engineering efforts, including those designed to increase the implementation of new techniques; the need for specialized research facilities, including large-scale facilities; the division of responsibilities among the various Federal agencies; and recommended levels of funding that the Foundation and other agencies should provide, in the form of grants to individuals, groups, and centers, to non-Federal researchers principally engaged in earthquake engineering research; and

(2) recommendations, if any, of the National Academy of Sciences for improvements in the current Federal efforts in the area of earthquake engineering research.

(b) The results of the study required by subsection (a) of this section shall be reported to the Congress on or before the expiration of the 12-month period following the date of enactment of this Act. Reports.

(c) In carrying out such study, the National Academy of Sciences is authorized to call upon any agency, department, or other instrumentality or entity of the United States for cooperation, and such agency, department, instrumentality, or entity shall provide such cooperation.

DESALINATION REPORT

SEC. 116. The Office of Science and Technology Policy shall prepare and submit a report to the Congress not later than December 1, 1988, on desalination research and technology. The report shall—

(1) describe the state of desalination research and technology being conducted by agencies of the Federal Government;

(2) recommend an agency of the Federal Government to be the lead agency on desalination research and technology;

(3) recommend ways to spur research and technology to decrease the cost of desalination; and

(4) recommend how desalination research and technology can be used as a component of the foreign assistance program of the United States.

PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE

42 USC 1881b.

SEC. 117. (a)(1)(A) The President is authorized to make Presidential Awards for Excellence in Mathematics and Science Teaching to kindergarten through grade 12 school teachers of mathematics and science who have demonstrated outstanding teaching ability in the field of teaching mathematics or science.

(B) Each year the President is authorized to make no fewer than 108 awards under subparagraph (A). In selecting teachers for an award authorized by this subsection, the President shall select at least two teachers—

(i) from each of the several States;

(ii) from the District of Columbia;

(iii) from the Commonwealth of Puerto Rico;

(iv) from among the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and other commonwealths, territories, and possessions of the United States; and

(v) from the United States Department of Defense Dependents' School.

(2) The President shall carry out this subsection, including the establishment of the selection procedures, after consultation with the Director and other appropriate officials of Federal agencies.

(3)(A) Funds to carry out this subsection for any fiscal year shall be made available from amounts appropriated pursuant to annual authorization of appropriations for the Foundation for Science and Engineering Education.

(B) Amounts made available pursuant to subparagraph (A) shall be available for making awards under this subsection, for administrative expenses, for necessary travel by teachers selected under this subsection, and for special activities related to carrying out this subsection.

(b)(1) Part C of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.), as amended by the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, is amended to read as follows:

"PART C—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN FOREIGN LANGUAGES

20 USC 3011.

"SEC. 2201. PRESIDENTIAL AWARDS.

"(a) GENERAL AUTHORITY.—The President is authorized to make Presidential Awards for Teaching Excellence in Foreign Languages to elementary and secondary school teachers of foreign languages who have demonstrated outstanding teaching ability in the field of teaching foreign languages.

"(b) LIMITATIONS.—Each year the President is authorized to make 108 awards under subsection (a). In selecting elementary and secondary school teachers for an award authorized by this section, the President shall select at least one elementary school teacher and one secondary school teacher—

"(1) from each of the several States;

"(2) from the District of Columbia;

"(3) from the Commonwealth of Puerto Rico;

"(4) from among the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and other commonwealths, territories, and possessions of the United States; and

"(5) from the United States Department of Defense Dependents' School.

102 STAT. 2873

"SEC. 2202. ADMINISTRATIVE PROVISIONS.

20 USC 3012.

"(a) IN GENERAL.—There are authorized to be appropriated $1,000,000 for each fiscal year to carry out this part.

"(b) AVAILABILITY.—Amounts appropriated pursuant to subsection (a) shall be available for making awards under this part, for administrative expenses, for necessary travel by teachers selected under this part, and for special activities related to carrying out this part.".

(2) The items in the table of contents of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) relating to part C of title II are amended to read as follows:

"PART C—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN FOREIGN LANGUAGES

"Sec. 2201. Presidential awards.
"Sec. 2202. Administrative provisions.".

DRUG-FREE WORKPLACE

SEC. 118. (a) No funds authorized to be appropriated under this Act, or under any other Act authorizing appropriations for fiscal year 1989 through 1993 for the Foundation, shall be obligated or expended unless the Foundation has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of the Foundation.

42 USC 1875 note.

(b) No funds authorized to be appropriated to the Foundation for fiscal years 1989 through 1993 shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by the board of directors or other governing authority of such recipient, contractor, or party, satisfactory to the Director of the Foundation, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

TITLE II—ACADEMIC RESEARCH FACILITIES MODERNIZATION

Academic Research Facilities Modernization Act of 1988.

SHORT TITLE

SEC. 201. This title may be cited as the "Academic Research Facilities Modernization Act of 1988".

42 USC 1861 note.

FINDINGS AND PURPOSE

SEC. 202. (a) The Congress finds that—

42 USC 1862a.

such eligible institutions or consortia in accordance with procedures prescribed by the Director pursuant to section 204 of this Act.

(2) Awards made under the Program shall not exceed $7,000,000 to any institution or consortium over any period of 5 years for the repair, renovation, or, in exceptional cases, replacement of academic research facilities.

(3) The Director shall, in making awards under the Program, consider the extent to which that institution or consortium has received funds for the repair, renovation, construction, or replacement of academic facilities from any other Federal funding source within the 5-year period immediately preceding the application. The Director shall give priority to institutions or consortia that have not received such funds in the preceding 5 years.

(4) The Director shall, in awarding funds under this title, consider the distribution of funds among institutions of different sizes and geographical locations.

(c) Criteria for the award of funds to any institution for a project under the Program shall include—

(1) the quality of the research and training to be carried out in the facility or facilities involved;

(2) the need for the proposed repair, renovation, or, in exceptional cases, replacement based on an analysis of the age and condition of existing research facilities and equipment;

(3) the congruence of the institution's research and training activities with the future research needs of the Nation and the research mission of the Foundation;

(4) the contribution that the project will make toward meeting national, regional, and institutional research and related training needs;

(5) in the case of an institution that historically has received relatively little Federal research and development funding, the contribution the proposed project will make to improving the institution's academic scientific and engineering infrastructure and broadening the Nation's science and engineering base; and

(6) the impact of the award on the overall geographic distribution of awards made under the Program, with the objective of avoiding undue concentration of awards.

PROCEDURES, GUIDELINES, AND PLANNING ACTIVITIES

SEC. 204. (a)(1) The Director shall, consistent with the objectives of the Program and the criteria set forth in section 203(c) of this Act, set forth procedures for the Program. 42 USC 1862c

(2) The procedures so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of Program objectives, but shall in any event provide that— 102 STAT. 2876

(A) funds to carry out the Program will be awarded only on the basis of merit after a comprehensive review using established Foundation procedures;

(B) the membership of merit review panels that assess proposals will be broadly representative of eligible institutions, including research universities and predominantly undergraduate and minority institutions;

(C) the institution receiving an award shall provide at least 50 percent of the cost, in cash or in kind, fairly evaluated, of the repair, renovation, or replacement involved and shall provide this contribution from private or non-Federal public sources, except that the Director may accept a match of less than 50 percent, but at least 30 percent, for institutions which are not ranked among the top 100 of the institutions receiving Federal research and development funding, as documented in the latest annual report of the Foundation entitled "Federal Support to Universities, Colleges, and Selected Nonprofit Institutions"; and

(D) to the extent practicable, eligible institutions of a given type will compete against similar institutions for Program awards.

102 STAT. 2874

(1) the fundamental research and related education program supported by the Federal Government and conducted by the Nation's universities and colleges are essential to our national security, and to our health, economic welfare, and general well-being;

(2) many national research and related education programs conducted by universities and colleges are now hindered by obsolete research buildings and equipment, and many institutions lack sufficient resources to repair, renovate, or replace their laboratories;

(3) the Nation's capacity to conduct high quality research and education programs and to maintain its competitive position at the forefront of modern science, engineering, and technology is threatened by this research capital deficit, which poses serious and adverse consequences to our future national security, health, welfare, and ability to compete in the international marketplace;

(4) a national effort to spur reinvestment in research facilities is needed, and national, State, and local policies and cooperative programs are required that will yield maximum return on the investment of scarce national resources and sustain a commitment to excellence in research and education; and

(5) the Foundation, as part of its responsibility for maintaining the vitality of the Nation's academic research, and in partnership with the States, industry, and universities and colleges, must assist in enhancing the historic linkages between Federal investment in academic research and training and investment in the research capital base by reinvesting in the capital facilities which modern research and education programs require.

(b) It is the purpose of this title to assist in modernizing and revitalizing the Nation's research facilities at institutions of higher education, independent non-profit research institutions and research museums, and consortia thereof, through capital investment.

ESTABLISHMENT OF PROGRAM

42 USC 1862b.

SEC. 203. (a)(1) To carry out this title, the Director shall establish and carry out a new Academic Research Facilities Modernization Program (hereafter in this title referred to as the "Program"), under which awards are made to institutions of higher education, independent nonprofit research institutions, and research museums, and consortia thereof, for the repair, renovation, or, in exceptional cases, replacement of obsolete science and engineering facilities primarily devoted to research.

(2) Such awards shall, consistent with the functions of the Foundation set forth in section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) and through established Foundation selection procedures, serve to—

(A) promote the modernization of graduate academic science and engineering research laboratories and related facilities so as to facilitate and support research in the scientific and engineering disciplines;

(B) assist those academic institutions that historically have received relatively little Federal research and development funds to improve their academic science and engineering infrastructures and broaden and strengthen the Nation's science and engineering base; and

102 STAT. 2875

(C) promote the modernization of undergraduate academic science and engineering research laboratories and related facilities so as to facilitate and support research in the scientific and engineering disciplines.

(b)(1) The Program shall be carried out through projects which involve the repair, renovation, or, in exceptional cases, replacement of specific science and engineering facilities devoted primarily to research at eligible institutions, or consortia thereof, and for which funds are awarded in response to specific proposals submitted by

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(b) The Director shall conduct comprehensive planning activities, including surveys of research facility needs and other information-gathering activities, necessary to implement the Program and to develop the procedures called for under subsection (a) of this section.

Federal Register, publication.

(c) Prior to the issuance of the comprehensive plan required by subsection (d) of this section, and consistent with the Program criteria set forth in section 203(c) of this Act, the Director shall publish in the Federal Register proposed Program guidelines for public review for a comment period of 30 days. Such guidelines shall provide detailed information on eligibility, criteria, terms, and conditions and shall include, but not be limited to—

(1) definitions for the terms "institutions of higher education", "private non-profit research organizations", "research museums", "consortia", "facilities", "facilities primarily devoted to research", "instrumentation", "equipment", "repair", "renovation", and "replacement";

(2) selection criteria to be used by the Foundation in evaluating proposals from institutions and consortia thereof, including criteria for evaluating scientific merit and for evaluating the age and condition of existing research facilities; and

(3) requirements for matching a Program award with contributions from non-Federal sources.

(d) The Director, after gathering appropriate information and after considering comments on the proposed Program guidelines published in the Federal Register pursuant to subsection (c) of this section, shall develop a comprehensive plan for the Program that—

(1) defines the appropriate roles and responsibilities of the Federal Government, institutions of higher education, State governments, private foundations, and other appropriate organizations;

(2) states what procedures will be used to ensure that predominantly undergraduate institutions and colleges and universities that historically have received little Federal research and development funding will receive substantial percentages of the funds awarded under this title;

(3) states the estimated percentage of Program funds available for each category of eligible institutions, including predominantly undergraduate institutions and colleges and universities that historically have received little Federal research and development funding as well as research universities; and

102 STAT. 2877

(4) evaluates and addresses, to the maximum extent possible, a variety of factors which include—

(A) the unique circumstances and research facilities needs of research universities, undergraduate institutions, and other institutions whose enrollment includes substantial percentages of minorities underrepresented in science and engineering research;

(B) innovative approaches in the management of the Program that address both short-term and long-term aspects of the renovation, repair, and replacement of academic research facilities;

(C) programmatic approaches that recognize and support excellence, strengthen scientific and engineering research potential and, to the maximum extent possible and consistent with the purposes of this Act, assure an equitable distribution of resources with respect to institutions and geographical areas; and

(D) any recommendations necessary to improve the Program and further meet the purposes of this title.

Reports.

(e) The Director shall prepare and submit, not later than June 15, 1989, a report containing the comprehensive plan required by subsection (d) of this section to the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

(f) Final guidelines shall be published in the Federal Register not later than 45 days after the submission of the report required under subsection (e). Federal Register, publication.

(g) The Director shall, from amounts available to the Foundation under section 101(b) of this Act for fiscal year 1989, make available an amount, not to exceed $1,000,000, to carry out the provisions of this section. None of the funds authorized to be appropriated in section 101 of this Act may be used for grant or contract awards under the Program prior to completion and submission to Congress of the comprehensive plan required by subsection (d) of this section.

(h) In conducting the activities under the Program, the Director shall consult with the Secretary of Education and the heads of other related agencies.

SET-ASIDE FOR CERTAIN INSTITUTIONS

SEC. 205. Of the amounts appropriated to the Foundation for the Program, as authorized under section 101 of this Act, in each fiscal year, at least 12 percent shall be reserved for historically Black colleges or universities defined as "part B institutions" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)) and other institutions of higher education whose enrollment includes a substantial percentage of students who are Black Americans, Hispanic Americans, or Native Americans. 42 USC 1862d. 102 STAT. 2878

CONFORMING AMENDMENT

SEC. 206. Subtitle E of title IV (sections 6401–6403) of the Omnibus Trade and Competitiveness Act of 1988 is repealed. 42 USC 1861 note, 1862a, 1862b.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 4418 (S. 1632):

HOUSE REPORTS: No. 100-649 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-148 (Comm. on Labor and Human Resources) and No. 100-331 (Comm. on Commerce, Science, and Transportation), both accompanying S. 1632.
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 9, considered and passed House.
June 17, S. 1632 considered in Senate; proceedings vacated and H.R. 4418, amended, passed in lieu.
Sept. 27, House concurred in certain Senate amendment, in another with an amendment.
Oct. 14, Senate concurred in House amendment.

Public Law 100-685
100th Congress

102 STAT. 4083

An Act

To authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes.

Nov. 17, 1988
[S. 2209]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989".

National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989.

TITLE I—NATIONAL AERONAUTICS AND SPACE CAPITAL DEVELOPMENT PROGRAM

FINDINGS

SEC. 101. Congress finds that— 42 USC 2451 note.

(1) in accordance with section 106 of the National Aeronautics

and Space Administration Authorization Act of 1988 (Public Law 100-147), a space station, hereafter referred to as the United States International Space Station, shall be constructed in order to establish a permanent presence for man in space for the following purposes—

(A) the conduct of scientific experiments, applications experiments, and engineering experiments;

(B) the servicing, rehabilitation, and construction of satellites and space vehicles;

(C) the development and demonstration of commercial products and processes; and

(D) the establishment of a space base for other civilian and commercial space activities including an outpost for further exploration of the solar system;

(2) expendable launch vehicles should be used to launch those payloads that do not require the presence of man;

(3) the space shuttle launches should be used to fulfill the Nation's needs for manned access to space;

(4) preeminence in space and aeronautics is key to the national security and economic well being of the United States;

(5) United States space policy needs long-range goals and direction in order to provide understanding for near-term space projects and programs;

(6) over the next five years the National Aeronautics and Space Administration, hereafter referred to as the "Administration", should pursue leadership in science through an aggressive set of major and moderate missions while maintaining a robust series of cost effective missions that can provide frequent flight opportunities to the scientific community

(7) over the next five years the Administration should prepare for the transition to the United States International Space Station of those science and technology programs that can be most efficiently and effectively conducted on that facility;

102 STAT. 4084

(8) the Administration should encourage the United States private sector investment in space and, to the maximum extent practicable provide frequent flight opportunities for the development of technologies, processes and products that benefit from the space environment;

(9) the Administration should enhance the existing space transportation capability through a robust mixed fleet of manned and unmanned vehicles in order to increase the reliability, productivity, and efficiency and reduce the cost of the Nation's access to space;

(10) the United States faces an increasingly successful foreign challenge to its traditional preeminent position in aeronautics which is rapidly reducing its lead in both civil and military aircraft;

(11) NASA's personnel are an integral component and resource for the Nation's space program, and an innovative personnel system should be developed;

(12) the establishment of a permanent presence in space leading ultimately to space settlements is fully consistent with the goals of the National Aeronautics and Space Act of 1958;

(13) the United States civil space activities should contribute significantly to enhancing the Nation's scientific and technological leadership, economy, pride, and sense of well-being, as well as United States world prestige and leadership;

(14) civil sector activities should be comprised of a balanced strategy of research, development, operations, and technology for science, exploration, and appropriate applications;

(15) assured access to space, sufficient to achieve all United States space goals, is an essential element of United States space policy, and the United States space transportation systems must provide a balanced, robust, and flexible capability

with sufficient resiliency to allow continued operation despite failures in any single system;

(16) the goals of the United States space transportation system are—

(A) to achieve and maintain safe and reliable access to, transportation in, and return from, space;

(B) to exploit the unique attributes of manned and unmanned launch and recovery systems;

(C) to encourage, to the maximum extent feasible, the development and use of United States private sector space transportation capabilities; and

(D) to reduce the costs of space transportation and related services;

(17) recognizing that communications advancements are critical to all United States space activities, the Administration should continue research and development efforts for future advances in space communications technologies;

(18) the goal of aeronautical research and technology development and validation activities should be to contribute to a national technology base that will enhance United States preeminence in civil and military aviation and improve the safety and efficiency of the United States air transportation system; and

102 STAT. 4085

(19) aeronautical research and technology development and validation activities should—

(A) emphasize emerging technologies with potential for breakthrough advances;

(B) consist of—

(i) fundamental research in all aeronautical disciplines, aimed at greater understanding of aeronautical phenomena and development of new aeronautical concepts; and

(ii) technology development and validation activities aimed at laboratory-scale development and proof-of-concept demonstration of selected concepts with high payoff potential;

(C) assure maintenance of robust aeronautical laboratories, including a first-rate technical staff and modern national facilities for the conduct of research and testing activities;

(D) be conducted with the close, active participation of the United States aircraft industry so as to accelerate the transfer of research results to aviation products;

(E) include providing technical assistance and facility support to other government agencies and United States industry;

(F) include conducting joint projects with other government agencies where such projects contribute materially to the goals set forth in this section;

(G) assure strong participation of United States universities both in carrying out aeronautical research and training future aeronautical research personnel; and

(H) be conducted, where practical, so that United States industry receives research results before foreign competitors.

REPORT ON LONG-RANGE SPACE CAPITAL DEVELOPMENT PROGRAM PLAN

SEC. 102. In consideration of Senate Report No. 100-429 and House of Representatives Report No. 100-650, the Administrator shall, by March 15, 1989, submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a 5-year Capital Development Plan including, but not limited to, the following:

(1) Economic assumptions and budgetary requirements for fulfilling the objectives of such plan.

(2) Estimates of total expenditures needed to maintain the operation of the national launch systems, related tracking and data services, civil service requirements, and all other current services.

(3) A detailed operating plan for fiscal year 1989 and program plans for fiscal years 1990 through 1993 setting forth specific program priorities, objectives, schedules, and milestones.

(4) Estimates of total projected investments in space hardware, facilities, and other capital improvements needed to fulfill the objectives of such plan.

BUDGET INCREASE

SEC. 103. It is the sense of the House of Representatives that the budget for the National Aeronautics and Space Administration should increase substantially over the five years following the date of enactment of this Act with a goal of at least 15 percent growth per annum in order to—

(1) rededicate the United States space program to the goal of leadership in critical areas of space science, space technology, space exploration, aeronautics, space applications, and space commercialization;

(2) reverse the dramatic decline in real spending for such program since the achievements of the Apollo program;

(3) forge a robust national space program that maintains a healthy balance between manned and unmanned space activities and recognizes the mutually reinforcing benefits of both;

(4) continue with the development and deployment of a permanently manned space station; and

(5) enhance United States preeminence in civil and military aviation and improve the safety and efficiency of the United States air transportation system.

BUDGET REQUEST

31 USC 1105 note.

SEC. 104. Commencing in fiscal year 1990 and every year thereafter, the President shall submit to Congress a budget request for the National Aeronautics and Space Administration for the immediate fiscal year and the following fiscal year, and include budget estimates for the third fiscal year.

TITLE II—FISCAL YEAR 1989 NASA AND MULTIYEAR SPACE STATION AUTHORIZATION

AUTHORIZATION

SEC. 201. (a) There is hereby authorized to be appropriated to the National Aeronautics and Space Administration for fiscal year 1989, except as otherwise stated:

(1) For "Research and development" for the following programs:

(A) United States International Space Station, $900,000,000 for fiscal year 1989, $2,130,200,000 for fiscal year 1990, and $2,912,500,000 for fiscal year 1991.

(B)(i) Space transportation capability development, $606,600,000.

(ii) In addition to the funds authorized pursuant to this section, there are authorized to be appropriated for space transportation capability development any additional funds transferred to the Administration from any other agency pursuant to a fiscal year 1989 appropriations Act.

(C) Physics and astronomy, $761,600,000.

(D) Life sciences, $91,700,000.

(E) Planetary exploration, $410,300,000.

(F) Space applications, $628,300,000.

(G) Technology utilization, $19,100,000; provided, however, that the Administrator shall contract for implementation of the Industrial Applications Center located in Oklahoma through the National Aeronautics and Space Administration's Rural Technology Applications Team. 102 STAT. 4087

(H) Commercial use of space, $38,800,000.

(I) Aeronautical research and technology, $404,200,000.

(J) Transatmospheric research and technology, $69,400,000.

(K) Space research and technology, $350,900,000.

(L) Safety, reliability, and quality assurance, $22,400,000.

(M) Tracking and data advanced systems, $18,800,000.

(2) For "Space flight, control and data communications" for the following programs:

(A) Space shuttle production and operational capability, $1,335,500,000, of which $51,000,000 is provided for the advanced solid rocket motor program.

(B)(i) Space transportation operations, $2,365,400,000, including such funds as may be necessary to ensure the availability of ammonium perchlorate for the production of solid rocket motors.

(ii) In addition to the funds authorized pursuant to this section, there are authorized to be appropriated for space transportation operations any additional funds transferred to the National Aeronautics and Space Administration from any other agency pursuant to a fiscal year 1989 appropriations Act.

(C) Space and ground network communications and data systems, $985,300,000.

(3) For "Construction of facilities", including land acquisition as follows:

(A) Modifications to processing Technology Facility for Space Station, Marshall Space Flight Center, $3,700,000.

(B) Construction of Addition for Space Systems Automated Integration and Assembly Facility, Johnson Space Center, $9,200,000.

(C) Replacement of High Pressure Gas Storage Vessels, National Space Technology Laboratory, $3,500,000.

(D) Increase Chiller Capacity, LC-39 Utility Annex, Kennedy Space Center, $2,300,000.

(E) Rehabilitation of PAD A, L-C 39, Kennedy Space Center, $4,600,000.

(F) Refurbish Atmospheric Reentry Materials and Structures Evaluation Facility, Johnson Space Center, $4,900,000.

(G) Modification for Advanced Engine Development, Test Stand 116, Marshall Space Flight Center, $13,500,000.

(H) Modifications to Orbiter Modification and Refurbishment Facility (OMRF) for Safing and Deservicing, Kennedy Space Center, $2,800,000.

(I) Modification to the X-Ray Calibration Facility (XRCF), Marshall Space Flight Center, $11,400,000.

(J) Construction of Auxiliary Chiller Facility, Johnson Space Center, $7,800,000.

(K) Modernization of Space Environment Simulator, Goddard Space Flight Center, $2,800,000.

(L) Modifications for Utility Reliability, Goddard Space Flight Center, $3,100,000.

(M) Refurbishment of 25-Foot Space Simulator, Jet Propulsion Laboratory, $12,000,000. 102 STAT. 4088

(N) Repair and Modifications of 12-Foot Pressure Wind Tunnel, Ames Research Center, $36,500,000.

(O) Rehabilitation and Modifications to 10x10 Supersonic Wind Tunnel, Lewis Research Center, $14,500,000.

(P) Refurbishment to Hypersonic Facilities Complex, Langley Research Center, $12,800,000.

(Q) Refurbishment of Electric Power Laboratory, Lewis Research Center, $6,100,000.

(R) Construction of National Resource Protection at various locations, $2,600,000.

(S) Repair of facilities at various locations, not in excess of $750,000 per project, $27,000,000.

(T) Rehabilitation and modification of facilities at various locations, not in excess of $750,000 per project, $34,000,000.

(U) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $500,000 per project, $9,000,000.

(V) Environmental compliance and restoration, $26,000,000.

(W) Facility planning and design not otherwise provided for, $20,000,000.

(X) Construction of an advanced solid rocket motor facility, $27,000,000.

Of the amounts authorized pursuant to subparagraphs (S) through (W), the Administrator may obligate up to $5,600,000 in order to expand the Launch Complex-39 Operation Support Building at the Kennedy Space Center. Notwithstanding subparagraphs (A) through (X), the total amount authorized by this paragraph shall not exceed $290,100,000.

(4) For "Research and program management", $1,915,000,000.

Contracts.
Grants.

(b) Notwithstanding the provisions of subsection (e), appropriations authorized in this title for "Research and development" and "Space flight, control and data communications" may be used for (1) any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator of the National Aeronautics and Space Administration (hereafter in this title referred to as the 'Administrator') determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data communications" pursuant to this title may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $500,000, unless the Administrator or the Administrator's designee has notified the President of the Senate and the Speaker of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of the nature, location, and estimated cost of such facility.

102 STAT. 4089

Contracts.
42 USC 2459a.

(c) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development", for "Space flight, control and data communications", or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(d) Appropriations made pursuant to subsection (a)(4) may be used, but not to exceed $35,000, for scientific consultation or extraor-

dinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(e)(1) Funds appropriated pursuant to subsection (a)(1), (2), and (4) may be used for the construction of new facilities and additions to, repair, rehabilitation, or modification of existing facilities, provided the cost of each such project, including collateral equipment, does not exceed $100,000.

(2) Funds appropriated pursuant to subsection (a) (1) and (2) may be used for unforeseen programmatic facility project needs, provided the cost of each such project, including collateral equipment, does not exceed $500,000.

(3) Funds appropriated pursuant to subsection (a)(4) may be used for such work on facilities controlled by the General Services Administration, provided the cost of each such project, including collateral equipment, does not exceed $500,000.

(f) Of the amounts authorized pursuant to subsection (a) (1) through (4), up to $8,000,000 may be made available for the National Space Grant College and Fellowship program established under the National Aeronautics and Space Administration Authorization Act of 1988 (Public Law 100-147).

CONSTRUCTION OF FACILITIES REPROGRAMMING

SEC. 202. Authorization is hereby granted whereby any of the amounts prescribed in section 201(a)(3) (A) through (X)—

(1) may be varied upward 10 percent, in the discretion of the Administrator or the Administrator's designee, or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such, may be varied upward 25 percent to meet unusual cost variations. Reports.

The total cost of all work authorized under paragraphs (1) and (2) shall not exceed the total of the amounts specified in section 201(a)(3) (A) through (X).

SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES

SEC. 203. Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed ½ of 1 percent of the funds appropriated pursuant to section 201(a) (1) or (2) to the "Construction of facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 201(a)(3) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No such funds may be obligated until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written report describing the nature of the construction, its cost, and the reasons therefor. Reports.

102 STAT. 4090

LIMITATIONS ON AUTHORITY

SEC. 204. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science, Space, and Technology or the Senate Committee on Commerce, Science, and Transportation;

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by section 201(a) (1), (2), and (4); and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committee,

unless a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee, of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

GEOGRAPHICAL DISTRIBUTION OF RESEARCH FUNDS

42 USC 2459 note.

SEC. 205. It is the sense of the Congress that it is in the national interest that consideration be given to the widest geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

ARREST AUTHORITY

42 USC 2456a.

SEC. 206. Section 304 of the National Aeronautics and Space Act of 1958 is amended by adding at the end the following new subsection:

Regulations.

"(f) Under regulations to be prescribed by the Administrator and approved by the Attorney General of the United States, those employees of the Administration and of its contractors and subcontractors authorized to carry firearms under subsection (e) may

102 STAT. 4091

arrest without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony. Persons granted authority to make arrests by this subsection may exercise that authority only while guarding and protecting property owned or leased by, or under the control of, the United States under the administration and control of the Administration or one of its contractors or subcontractors, at facilities owned by or contracted to the Administration.".

ADVANCED SOLID ROCKET MOTOR AUTHORITY

SEC. 207. If, after evaluation of proposals received in response to the request for proposals for an advanced solid rocket motor required by section 121(b) of the National Aeronautics and Space Administration Authorization Act of 1988 (Public Law 100-147; 101 Stat. 868), the Administrator determines that it is in the best interests of the United States to select a proposal offering a privately financed and non-Government-owned production facility to be constructed on a Government or non-Government site, funds otherwise authorized in section 201(a)(3)(X) of this Act for the construction of a Government-owned production facility on a Government-owned site shall be available, without fiscal year limitation, for that purpose.

STUDIES ON MICROGRAVITY RESEARCH CAPABILITY

Contracts. Reports.

SEC. 208. (a) The Administrator shall contract with the National Academy of Sciences to undertake a review of the Nation's microgravity research capability and issue a report addressing—

(1) the scientific and commercial value to the Nation of achieving a man-tended capability through a Commercially Developed Space Facility (CDSF) prior to man-tended operations of the space station;

(2) the technical characteristics of a CDSF that would enable its optimum use;

(3) the anticipated microgravity research and manufacturing requirements of commercial users and the Government;

(4) the extent to which existing and proposed facilities could support these requirements;

(5) the likelihood that a CDSF would become commercially self-sustaining and an estimate of when that could occur;

(6) the state of space automation technology and its relevance to the capabilities required for a CDSF;

(7) how a decision by the Government to lease facilities on a CDSF might affect the viability of other proposed commercial microgravity research facilities; and

(8) the effect a commitment to the CDSF would have on the current space transportation system launch schedule.

(b) The Administrator shall contract with the National Academy of Public Administration to— Contracts.

(1) estimate the developmental, operational, and other costs to the Government associated with a CDSF;

(2) consider the practicability of various financial options by which the Government could participate in a CDSF, including leasing, lease-purchase, and purchase;

(3) consider, as regards the lease option, instead of providing for a flat level of lease obligations, the practicability of reducing on a yearly basis the level of Government lease operations during the years of operation of a CDSF; and

102 STAT. 4092

(4) consider, as regards the lease option, the practicability of making the minimum levels of Government lease obligations in the years of operation of a CDSF contingent on the attachment, by the CDSF operator, of certain minimum levels of irrevocable contract commitments with entities other than the United States Government.

(c) Based on the above reports, the Administrator shall provide a report to the House Committee on Science, Space, and Technology and the Senate Committee on Commerce, Science, and Transportation with policy options related to a CDSF and microgravity facilities, to be delivered no later than May 15, 1989. Reports.

BUY AMERICAN

SEC. 209. (a) The Administrator shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if— Contracts.

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) For purposes of this section—

(1) the term "domestic firm" means a business entity that is organized under the laws of the United States and that conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(d) This section shall apply only to contracts for which—

(1) amounts are made available pursuant to this Act; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

Science and technology.

INTERNATIONAL SPACE DOCKING CAPABILITY

Union of Soviet Socialist Republics.

SEC. 210. (a) It is the sense of Congress that the Administrator should establish a multilateral working group of representatives from the space agencies of appropriate spacefaring nations, including the Union of Soviet Socialist Republics, and from appropriate international entities, to explore the technological and procedural principles that would be necessary to achieve an international space docking capability, and the establishment of international docking interface standards for addressing requirements for compatible

102 STAT. 4093

interfaces for docking, communications, and life support systems, and also space rescue missions which could particularly benefit from the use of such a capability.

(b) Within 6 months after the date of the enactment of this Act, the Administrator shall advise the Congress on the status of establishing an International Space Docking Working Group as recommended in subsection (a).

Mississippi.

JOHN C. STENNIS SPACE CENTER

SEC. 211. The National Space Technology Laboratories of the National Aeronautics and Space Administration located in Bay St. Louis, Mississippi, is named and designated as the "John C. Stennis Space Center". Any reference in a law, map, regulation, document, record, or other paper of the United States to such center shall be held to be a reference to the "John C. Stennis Space Center".

OUTER SOLAR SYSTEM EXPLORATION

SEC. 212. The Administrator, in coordination with the Secretary of Energy, for the purpose of outer solar system exploration, may request and receive such quantities of nuclear fuel as are necessary only for the specific mission, on terms and at costs as may be agreed upon. Nothing in this section authorizes the providing of such nuclear fuel on those terms for any other purpose or its diversion for any other use.

COMMERCIAL SPACE LAUNCH ACT AUTHORIZATION

SEC. 213. Section 24 of the Commercial Space Launch Act (49 App. U.S.C. 2623) is amended by adding at the end thereof the following: "There is authorized to be appropriated to the Secretary to carry out this Act $3,827,000 for fiscal year 1989.".

NATIONAL AERONAUTICS AND SPACE ACT OF 1958 AMENDMENT

SEC. 214. Section 102(c) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451(c)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

Science and technology.

"(9) The preservation of the United States preeminent position in aeronautics and space through research and technology development related to associated manufacturing processes.".

DRUG-FREE WORKPLACE

42 USC 2459 note.

SEC. 215. (a) No funds authorized to be appropriated under this Act, or under any other Act authorizing appropriations for fiscal year 1989 through 1993 for the Administration, shall be obligated or

expended unless the Administration has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of the Administration.

(b) No funds authorized to be appropriated to the Administration for fiscal years 1989 through 1993 shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by the board of directors or other government authority of such recipient, contractor, or party, satisfactory to the Administrator of the Administration, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party. 102 STAT. 4094

(c) The provisions of this section, and the provisions of the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988, the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989, the National Science Foundation Authorization Act for Fiscal Years 1989 and 1990, and the National Nutrition Monitoring and Related Research Act of 1988, relating to a drug-free workplace, shall not be effective until January 16, 1989.

OHIO CENTER FOR AEROSPACE

SEC. 216. (a) The Administrator may, without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), and on such terms as the Administrator may deem to be appropriate, lease, for a term not to exceed 99 years, real property located at the Lewis Research Center in Cuyahoga County, to the State of Ohio, or a subdivision or agent thereof, or to a corporation or foundation organized exclusively for educational or scientific purposes which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)), or to any other not-for-profit entity, for the purpose of the construction and operation thereon of an Institute whose purpose is the conduct of aeronautical and space research, the education and training of aeronautical and space engineers, and the transfer of aeronautical and space technology between the United States public and private sectors. This lease shall be renewable for additional periods in the discretion of the Administrator.

(b) Subject to the availability of appropriations therefor, the Administrator may enter into agreements, on such terms as the Administrator may deem to be appropriate, with the State of Ohio, or a subdivision or agent therefor, or with a corporation or foundation organized exclusively for educational or scientific purposes which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)), or to any other not-for-profit entity, pursuant to which the Administration may provide administrative, maintenance, instructional, and other appropriate support, with or without reimbursement, to an Institute whose purpose is the conduct of aeronautical and space research, the education and training of aeronautical and space engineers, and the transfer of aeronautical and space technology between the United States public and private sectors.

(c) The Administrator may redelegate the authority conferred in subsections (a) and (b), to such subordinate officers and employees as the Administrator may designate.

SPACE SETTLEMENTS

SEC. 217. (a) The Congress declares that the extension of human life beyond Earth's atmosphere, leading ultimately to the establishment of space settlements, will fulfill the purposes of advancing 42 USC 2451 note.

102 STAT. 4095 science, exploration, and development and will enhance the general welfare.

(b) In pursuit of the establishment of an International Space Year in 1992 pursuant to Public Law 99-170, the United States shall exercise leadership and mobilize the international community in furtherance of increasing mankind's knowledge and exploration of the solar system.

Reports.

(c) Once every 2 years after the date of the enactment of this Act, the National Aeronautics and Space Administration shall submit a report to the President and to the Congress which—

(1) provides a review of all activities undertaken under this section including an analysis of the focused research and development activities on the Space Station, Moon, and other outposts that are necessary to accomplish a manned mission to Mars;

(2) analyzes ways in which current science and technology can be applied in the establishment of space settlements;

(3) identifies scientific and technological capacity for establishing space settlements, including a description of what steps must be taken to develop such capacity;

(4) examines alternative space settlement locations and architectures;

(5) examines the status of technologies necessary for extraterrestrial resource development and use and energy production;

(6) reviews the ways in which the existence of space settlements would enhance science, exploration, and development;

(7) reviews mechanisms and institutional options which could foster a broad-based plan for international cooperation in establishing space settlements;

(8) analyzes the economics of financing space settlements, especially with respect to private sector and international participation;

(9) discusses sociological factors involved in space settlement such as psychology, political science, and legal issues; and

(10) addresses such other topics as the National Aeronautics and Space Administration considers appropriate.

PEACEFUL USE OF SPACE STATION

SEC. 218. No civil space station authorized under section 201(a)(1)(A) of this Act may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

COMMERCIAL SPACE PROGRAMS

15 USC 3704 note.

SEC. 219. Section 201 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 is amended by adding at the end the following new subsection:

"(f) COMMERCIAL SPACE PROGRAMS.—Nothing in this section authorizes the Department to establish an Office of Commercial Space Programs or to place such an office into the Technology Administration without prior authorization of the Congress.".

102 STAT. 4096

Science and technology. 42 USC 2451 note.

TITLE III—TEN YEAR STRATEGIC PLAN

AERONAUTICS AND SPACE STRATEGIC PLAN

SEC. 301. The Administrator should develop an aggressive and balanced plan of science and applications including but not limited to—

(1) the robotic exploration of other solar system bodies;

(2) the study and observation of other celestial bodies and phenomena at spectral wave lengths and resolutions that will enhance our understanding of the universe;

(3) the enhanced study and monitoring of Earth as an interacting system;

(4) the development of a full understanding of the behavior of biological systems in the space environment; and

(5) the development of a full understanding of physics and chemistry of the macroscopic behavior of materials in the microgravity environment.

SPACE RESEARCH AND TECHNOLOGY STRATEGIC PLAN

SEC. 302. The Administrator should develop an aggressive and balanced plan of space research and technology including but not limited to—

(1) fundamental and innovative research as the seedbed for enabling technologies for future civil space missions;

(2) focused technology programs keyed to long range, high priority civil space missions;

(3) technology research and demonstrations, extending laboratory activities from Earth to space-based facilities such as the Space Shuttle, Space Station, orbital platforms, and eventually the Moon and other planetary bodies; and

(4) cooperation with, and service to, other space program sectors with advanced technology and use of ground and space-based facilities.

SPACE EXPLORATION STRATEGIC PLAN

SEC. 303. The Administrator should develop a plan in pursuit of the continued manned exploration of the solar system and low-Earth orbit, including but not limited to—

(1) the establishment of an operational United States International Space Station that shall be permanently manned; and

(2) the development of those technologies and systems required for manned exploration of space beyond earth orbit.

SPACE TRANSPORTATION STRATEGIC PLAN

SEC. 304. The Administrator should develop a plan to improve the manned and unmanned space transportation system including—

(1) the continued enhancement of the space shuttle and its ground system in order to increase safety and efficiency and reduce costs;

(2) the completion of the development of a heavy-lift expendable launch vehicle if consistent with mission requirements of the Administration, the Department of Defense, and other Federal agencies; and

(3) the initiation of preliminary design activities for the next generation of a manned space launch system beyond the space shuttle.

AERONAUTICAL RESEARCH AND TECHNOLOGY DEVELOPMENT AND VALIDATION LONG-RANGE PLAN

SEC. 305. The Administrator should develop a plan in pursuit of—

(1) a vigorous program in aeronautics research and technology development and validation, emphasizing emerging technologies with the potential for breakthrough advances to enhance United States preeminence in civil and military aviation; and

(2) in cooperation with the Department of Defense, a technology development program (with an option for a flight demonstration in 1995) to prove the feasibility of an air-breathing hypersonic aerospaceplane capable of single-stage-to-orbit operation and hypersonic cruise in the atmosphere.

law involving such duties. Such duties include research for developing improved production capabilities for atmospheric processes, as well as solar-terrestrial services and research.

SEC. 405. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems duties under law, $383,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to data and information services specified by the Act of 1890 and by any other law involving such duties. Such duties include spacecraft procurement, launch, and associated ground station system changes involving polar orbiting and geostationary environmental satellites and land remote-sensing satellites, as well as the operation of such satellites.

(b) The authorization provided for under subsection (a) of this section shall be in addition to moneys authorized under the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) for the purpose of carrying out such duties relating to satellite observing systems.

SEC. 406. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its data and information services duties under law, $25,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to data and information services specified by the Act of 1890 and by any other law involving such duties. Such duties include climate data services, ocean data services, geophysical data services, and environmental assessment and information services.

SEC. 407. (a) The Secretary shall prepare and submit to the Congress, not later than 90 days after the date of enactment of this Act, a 10-year strategic plan for the comprehensive modernization of the National Weather Service. The strategic plan shall set forth basic service improvement objectives of the modernization as well as the critical new technological components and the associated operational changes necessary to fulfill the objectives of weather and flood warning service improvements. 15 USC 313 note. 102 STAT. 4099

(b) The Secretary shall prepare and submit to the Congress, by the beginning of the fiscal year immediately following the fiscal year in which the strategic plan required by subsection (a) of this section is submitted, a National Implementation Plan for modernization of the National Weather Service. The National Implementation Plan shall set forth the schedules for necessary actions to accomplish the objectives described in the strategic plan, and the National Implementation Plan shall include—

(1) detailed requirements for new technologies, facilities, staffing levels, and funding, for each of the two fiscal years immediately following the fiscal year in which such National Implementation Plan is submitted, in accordance with the overall schedule for modernization;

(2) special measures to test, evaluate, and demonstrate key elements of the Modernized National Weather Service operations prior to national implementation, including a multistation operational demonstration which tests the performance of all components of the modernization in an integrated manner for a sustained period; and

(3) detailed plans and funding for meteorological research to be accomplished under this title to assure that new techniques in forecasting will be developed to utilize the new technologies being implemented in the modernization.

(c) The Secretary shall submit a revised National Implementation Plan to the Congress at the beginning of each successive fiscal year after the fiscal year in which the initial National Implementation Plan is submitted.

(d) In reviewing and revising the National Implementation Plan, the Secretary shall consult, as appropriate, with other Federal and public agencies responsible for providing or utilizing weather services.

15 USC 313 note.

SEC. 408. (a) The Secretary shall not close, consolidate, automate, or relocate any Weather Service Office or Weather Service Forecast Office pursuant to the implementation of the strategic plan required by section 407, except in accordance with this section.

(b) The Secretary may not close, consolidate, automate, or relocate any such office unless the Secretary has certified to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives that such action will not result in any degradation of weather services provided to the affected area. Such certification shall include—

(1) a detailed comparison of the services provided to the affected area and the services to be provided after such action;

(2) any recent or expected modernization of National Weather Service operations which will enhance services in the affected area; and

(3) evidence, based upon operational demonstration of modernized National Weather Service operations, which supports the conclusion that no degradation in services will result from such action.

102 STAT. 4100

15 USC 1534.

SEC. 409. (a) Except as otherwise provided in this section, the Secretary is authorized to assess fees, based on fair market value, for access to environmental data archived by the National Environmental Satellite, Data, and Information Service of the National Oceanic and Atmospheric Administration.

State and local governments. Schools and colleges.

(b)(1) The Secretary shall provide data described in subsection (a) to Federal, State, and local government agencies, to universities, and to other nonprofit institutions at the cost of reproduction and transmission, if such data is to be used for research and not for commercial purposes.

International organizations.

(2) The Secretary shall waive the assessment of fees under subsection (a) as necessary to continue to provide data to foreign governments and international organizations on a data exchange basis or as otherwise provided by international agreement.

Federal Register, publication.

(c) The initial schedule of any fees assessed under this section, and any subsequent amendment to such schedule, shall be published by the Secretary in the Federal Register at least 30 days before such fees will take effect. The initial schedule shall remain in effect without amendment for the three-year period beginning on the date that fees under the schedule take effect.

(d) Any assessment of fees under this section shall meet the following requirements:

(1) No fees shall be assessed under this section until after September 30, 1989

(2) With respect to the first one-year period during which the initial fee schedule is in effect, fees shall be assessed at no more than one-third of the fair market value specified in subsection (a).

(3) With respect to the second one-year period during which the initial fee schedule is in effect, fees shall be assessed at not more than two-thirds of such fair market value.

(4) With respect to the third one-year period during which the initial fee schedule is in effect, and with respect to any period thereafter, fees shall be assessed at no more than the full amount of such fair market value.

(e) Fees collected under this section shall be available to the National Environmental Satellite, Data, and Information Service for expenses incurred in the operation of its data archive centers.

Reports.

(f) The Secretary shall, not later than 90 days after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report which sets forth—

(1) any plan of the Secretary for assessing fees under this section, including the methodology and bases by which the

amount of such fees shall be determined, and the estimated revenues therefrom; and

(2) any plan of the Secretary for using revenues generated from such fees, as well as other resources, to improve the capability of the National Environmental Satellite, Data, and Information Service to collect, manage, process, archive, and disseminate the increasing amounts of data generated from satellites, radars, and other technologies.

(g) The authority of the Secretary to assess fees under this section shall be in addition to, and shall not be construed to limit, the authority under any other law to assess fees relating to the environmental data activities of the National Oceanic and Atmospheric Administration.

102 STAT. 4101

Pollution.
42 USC 7454 note.

SEC. 410. The Secretary, in consultation with the Secretary of State, the Administrator of the National Aeronautics and Space Administration, and appropriate non-Federal organizations, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a plan to construct and operate a worldwide system of ground-based remote sensors to monitor the stratospheric levels of chemicals which can affect the level of ozone in the stratosphere and to use these results to improve our understanding of the possible changes in stratospheric ozone that are the consequence of human activities. The plan shall include time lines for construction and operation of the system, a description of the roles of the National Oceanic and Atmospheric Administration and the National Aeronautics and Space Administration, non-Federal organizations, other nations, and international organizations in constructing and operating the system, and estimates of the costs to construct and operate the system. The plan shall be submitted not later than July 1, 1989.

SEC. 411. It is the sense of the Congress that the global change program represents a significant opportunity for international cooperation and that it is in the best interest of the United States to maintain a separate civilian polar meteorological satellite program to facilitate data sharing with foreign participants in the global change program.

Missouri.

SEC. 412. None of the funds authorized under this title shall be used to move from Kansas City, Missouri, the National Weather Service Training Center currently located at Kansas City, nor to close such Center, nor to contract out any function or activity performed by Federal employees as of the date of enactment of this Act.

SEC. 413. For the purposes of this title, the term—

(1) "Act of 1890" means the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (26 Stat. 653); and

(2) "Act of 1947" means the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.).

Environmental protection.
42 USC 8906.

SEC. 414. (a)(1) The National Weather Service of the National Oceanic and Atmospheric Administration shall maintain an updated data base describing the acid content in precipitation in the United States, using information from Federal acid precipitation monitoring sites.

(2) Such data shall be available to interested parties by Weather Service Forecast Offices in the National Weather Service, or through such other facilities or means as the Assistant Administrator for Weather Services, National Oceanic and Atmospheric Administration, shall direct, for those areas of the United States where and at such time as such information is presently available, within 120 days after the date of the enactment of this Act.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SEC. 401. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out the operations and research duties of the National Weather Service under law, $279,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to National Weather Service operations and research specified by the Act of 1890, the Act of 1974, and any other law involving such duties. Such duties include meteorological, hydrological, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

SEC. 402. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its public warning and forecast systems duties under law, $98,500,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to public warning and forecast systems specified by the Act of 1890, the Act of 1947, and any other law involving such duties. Such duties include the development, acquisition, and implementation of major public warning and forecast systems.

Contracts.

(b) In procuring information processing and telecommunications services of the National Oceanic and Atmospheric Administration for the Advanced Weather Interactive Processing System, the Secretary of Commerce (hereafter in this title referred to as the "Secretary") may provide, in the contract or contracts for such services, for the payment for contingent liability of the Federal Government which may accrue in the event that the Government decides to terminate the contract before the expiration of the multiyear contract period. Such contract or contracts for such services shall limit the payments which the Federal Government is allowed to make under such contract or contracts to amounts provided in advance in appropriation Acts.

SEC. 403. (a) There are authorized to be appropriated to the
102 STAT. 4098 Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality research duties under law, $51,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to climate and air quality research specified by the Act of 1890, the Act of 1947, and any other law involving such duties. Such duties include the interannual and seasonal climate research long-term climate and air quality research, and the National Climate Progam.

(b) Of the sums authorized under subsection (a) of this section $3,238,000 for fiscal year 1989 are authorized to be appropriated for the activities under the National Climate Program Act (15 U.S.C. 2901 et seq.).

(c) Of the sums authorized under subsection (a) of this section, $12,000,000 for fiscal year 1989 are authorized to be appropriated to establish a program for the purposes of studying climate and global change. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include global observations, monitoring, and data and information management relating to the study of changes in the Earth's climatic system, fundamental research on critical oceanic and atmosphere processes, and climate prediction and diagnostics.

SEC. 404. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research duties under law, $44,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to atmospheric research specified by the Act of 1890 and by any other

(3) Where other Federal agencies collect such data in the course of carrying out their statutory missions, the heads of those agencies and the Administrator of the National Oceanic and Atmospheric Administration shall arrange for the transfer of such data to the National Weather Service.

102 STAT. 4102

(b) Nothing in this section shall be construed to require any Federal agency to establish any new acid precipitation monitoring site.

TITLE V—NATIONAL SPACE COUNCIL

NATIONAL SPACE COUNCIL

Establishment. 42 USC 2471.

SEC. 501. (a) Effective February 1, 1989, there is established in the Executive Office of the President the National Space Council, which shall be chaired by the Vice President.

President of U.S. Reports.

(b) By March 1, 1989, the President shall submit to the Congress a report that outlines the composition and functions of the National Space Council.

President of U.S.

(c) The Council may employ a staff of not more than seven persons, which is to be headed by a civilian executive secretary, who shall be appointed by the President.

TITLE VI—AIR TRAFFIC CONTROLLER PERFORMANCE RESEARCH

49 USC app. 1353 note.

SEC. 601. FINDINGS.—The Congress finds as follows:

(1) Research is needed to establish a more scientific approach for—

(A) identifying future staffing requirements for the air traffic control system; and

(B) developing tools needed for meeting those requirements.

(2) The Federal Aviation Administration and the National Aeronautics and Space Administration each have unique expertise and facilities for conducting research into the man-machine interface problems associated with a highly automated air traffic control system.

SEC. 602. STUDY ON INCREASED AUTOMATION.—

(1) IN GENERAL.—In order to develop the tools necessary for establishing appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system.

(2) CONTENT.—Research conducted under paragraph (1) shall include investigation of the following:

(A) Methods for improving and accelerating future air traffic controller training through the application of advanced training techniques, including use of simulation technology.

(B) The role of future automation in the air traffic control system and its physical and psychological effects on air traffic controllers.

(C) The attributes and aptitudes needed to function well in a highly automated air traffic control system, and development of appropriate testing methods for identifying indivduals possessing those attributes and aptitudes.

102 STAT. 4103

(D) Innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system.

(E) New technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(3) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall report to the Congress the Administrator's plans for conducting research under this section.

SEC. 603. AGREEMENT WITH ADMINISTRATOR OF NASA.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into an agreement with the Administrator of the National Aeronautics and Space Administration for use of their unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of air traffic controllers.

(2) CONTENT.—Research under this section shall include investigation of the following:

(A) Human perceptual capabilities and the effect of computer-aided decision making on the workload and performance of air traffic controllers.

(B) Information management techniques for advanced air traffic control display systems.

(C) Air traffic controller workload and performance measures, including development of predictive models.

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.—For conducting research under this title there are authorized to be appropriated, from amounts in the Airport and Airway Trust Fund which are available for research and development, such sums as may be necessary.

Approved November 17, 1988.

LEGISLATIVE HISTORY—S. 2209 (H.R. 4561):

HOUSE REPORTS: No. 100-650 accompanying H.R. 4561 (Comm. on Science, Space, and Technology).

SENATE REPORTS: No. 100-429 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 134 (1988):

June 2, H.R. 4561 considered and passed House.

Aug. 9, S. 2209 considered and passed Senate.

Oct. 19, considered and passed House, amended.

Oct. 21, Senate concurred in House amendment.

Public Law 100-342
100th Congress

An Act

To amend the Federal Railroad Safety Act of 1970 and for other purposes.

June 22, 1988
[S. 1539]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Rail Safety Improvement Act of 1988.
Law enforcement and crime.
45 USC 421 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rail Safety Improvement Act of 1988".

SEC. 2. AUTHORIZATION FOR APPROPRIATIONS.

Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended to read as follows:

"SEC. 214. AUTHORIZATION FOR APPROPRIATIONS.

"(a) There is authorized to be appropriated to carry out this Act not to exceed $40,649,000 for the fiscal year ending September 30, 1988, not to exceed $41,868,470 for the fiscal year ending September 30, 1989, and not to exceed $44,381,000 for the fiscal year ending September 30, 1990.

"(b) Sums appropriated under this section for research and development, automated track inspection, and the State safety grant program are authorized to remain available until expended.".

SEC. 3. INCREASED PENALTIES; LIABILITY OF INDIVIDUALS.

(a) Section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) is amended—

(1) in subsection (a) by striking "railroad" and inserting in lieu thereof "person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad)";

(2) in subsection (b) by striking all after "(45 U.S.C. 39)" and inserting in lieu thereof "in an amount of not less than $250 nor more than $10,000, except that where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty of not to exceed $20,000 may be assessed.";

(3) in subsection (c)—

(A) by striking the first sentence and inserting in lieu thereof "Any person violating any rule, regulation, order, or standard referred to in subsection (b) shall be assessed by the Secretary the civil penalty applicable to the standard violated. Penalties may be assessed against individuals under this subsection only for willful violations.";

(B) by inserting ", in which the individual resides," after "such violation occurred"; and

(C) by adding at the end the following new sentences: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor, under protest communicated to the supervisor. Such individual shall have the right to document such protest."; and

(4) by adding at the end the following new subsection:

102 STAT. 625

"(f) Where an individual's violation of any rule, regulation, order, or standard prescribed by the Secretary under this title is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after notice and opportunity for a hearing, may issue an order prohibiting such individual from performing safety-sensitive functions in the rail industry for a specified period of time or until specified conditions are met. This subsection shall not be construed to affect the Secretary's authority under section 203 to take such action on an emergency basis.".

Regulations.
45 USC 438 note.

(b) Within 30 days after the date of the enactment of this Act the Secretary of Transportation (hereafter in this Act referred to as the "Secretary") shall issue interim rules, regulations, orders, or standards containing penalty schedules applicable to railroads and individuals reflecting the changes made by the amendments in subsection (a). The Secretary shall issue final rules, regulations, orders, or standards with respect to such penalty schedules within 6 months after such date of enactment.

SEC. 4. LICENSING OR CERTIFICATION OF ENGINEERS.

(a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following new subsection:

Regulations.

"(l)(1) The Secretary shall, within 12 months after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to establish a program requiring the licensing or certification of any operator of a locomotive, including any locomotive engineer, after the expiration of 12 months following the establishment of such program.

"(2) The program established by the Secretary under paragraph (1)—

"(A) shall be implemented through review and approval of each railroad's operator qualification standards;

"(B) shall provide minimum training requirements;

"(C) shall require comprehensive knowledge of applicable railroad operating practices and operating rules;

Records.

"(D) shall, except as provided in paragraph (4), require the consideration, to the extent information is available, of the motor vehicle driving record of each individual seeking licensing or certification under such program, including—

"(i) any denial of a motor vehicle operator's license by a State for cause within the previous 5 years;

"(ii) any cancellation, revocation, or suspension of a motor vehicle operator's license by a State for cause within the previous 5 years; and

"(iii) any conviction within the previous 5 years of an offense described under section 205(a)(3) (A) or (B) of the National Driver Register Act of 1982,

and may, based on such driving record, require disqualification of an individual or the granting of a license or certification conditioned on such terms as the Secretary may prescribe; and

"(E) shall require any individual seeking a license or certification under this subsection to—

State and local governments.
Records.

"(i) request the chief driver licensing official of each State in which such individual has within the previous 5 years

102 STAT. 626

held a motor vehicle operator's license to provide information to his or her employer or prospective employer, or to the Secretary, as the Secretary may determine, with respect to such individual's driving record; and

"(ii) make the request provided for in section 206(b)(5) of the National Driver Register Act of 1982, for information to be transmitted to his or her employer, prospective employer, or the Secretary, as the Secretary may determine.

"(3) The Secretary, employer, or prospective employer, as appropriate, shall make information obtained under paragraph (2)(E) available to the individual, who shall be given an opportunity to comment on it in writing. Any such comment shall be included in any record or file maintained by the Secretary, employer, or

Records.

prospective employer that contains the information to which the comment is related.

"(4)(A) The Secretary shall establish standards and procedures for waiving the application of requirements established under paragraph (2)(D) to any individual or class of individuals who the Secretary determines are not currently unfit to operate a locomotive.

"(B) In establishing the program under this subsection, the Secretary may not waive the application of requirements established under paragraph (2)(D) to an individual or class of individuals with a conviction, cancellation, revocation, or suspension described in paragraph (6) (A) or (B) who have not successfully completed a rehabilitation program established by a railroad or approved by the Secretary.

"(5) An individual who is denied a license or certification or whose license or certification is conditioned under requirements established under paragraph (2)(D) shall be entitled to an administrative hearing under subsection (b) to determine whether such license or certification has been properly denied or conditioned.

"(6) No individual shall be denied a license or certification under requirements established under paragraph (2)(D) because of— Alcohol and alcoholic beverages. Drugs and drug abuse.

"(A) a conviction for operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance; or

"(B) the cancellation, revocation, or suspension of the motor vehicle operator's license of such individual on the basis of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance,

if such individual subsequent to such conviction, cancellation, revocation, or suspension has successfully completed a rehabilitation program established by a railroad or approved by the Secretary.".

(b)(1) Section 206(b) of the National Driver Register Act of 1982 (23 U.S.C. 401, note) is amended by adding at the end the following new paragraph:

"(5) Any individual who is employed by a railroad as an operator of a locomotive, or who seeks employment with a railroad as an operator of a locomotive, may request the chief driver licensing official of a State to transmit information regarding the individual under subsection (a) of this section to his or her employer or prospective employer, or to the Secretary. There shall be no access to information in the Register under this paragraph which was entered in the Register more than three years before the date of such request, unless such information relates to revocations or suspensions that are still in effect on the date of the request. Information submitted to the Register by the States under Public Law 86-660 (74 Stat. 526) or under this title shall be subject to access for the purpose of this paragraph during the transition described under section 203(c) of this title.". State and local governments. Records. Classified information. 102 STAT. 627

(2) Paragraphs (1) and (2) of subsection (b) of section 206 of the National Driver Register Act of 1982 (23 U.S.C. 401, note) are each amended by adding at the end the following: "Information submitted to the Register by States under Public Law 86-660 (74 Stat. 526) or under this title shall be subject to access for the purpose of this paragraph during the transition described under section 203(c) of this title.". State and local governments.

SEC. 5. PROTECTION OF EMPLOYEES AGAINST DISCRIMINATION.

(a) Section 212(c)(2) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(c)(2)) is amended to read as follows:

"(2) In any proceeding with respect to which a dispute, grievance, or claim arising under this section is brought for resolution before the Adjustment Board (or any division or delegate thereof) of any other board of adjustment created under section 3 of the Railway Labor Act (45 U.S.C. 153), such dispute, grievance, or claim shall be expedited by such Board or other board and be resolved within 180 days after its filing. If the violation of subsection (a) or (b) is a form of discrimination other than discharge, suspension, or any other discrimination with respect to pay, and no other remedy is available Claims. Wages.

under this subsection, the Adjustment Board (or any division or delegate thereof) or any other board of adjustment created under section 3 of the Railway Labor Act may award the aggrieved employee reasonable damages, including punitive damages, not to exceed $20,000.".

(b) Section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended by adding at the end the following new subsection:

Classified information.

"(f)(1) Except as provided in paragraph (2), or with the written consent of the employee, the Secretary shall not disclose the name of any employee of a railroad who has provided information with respect to an alleged violation of this title, any other Federal railroad safety law, or any rule, regulation, order, or standard issued under this title or any other Federal railroad safety law.

"(2) The Secretary shall disclose to the Attorney General the name of any employee described in paragraph (1) who has provided information with respect to a matter being referred to the Attorney General for enforcement under this title, any other Federal railroad safety law, or any rule, regulation, order, or standard issued under this title or any other Federal railroad safety law.".

SEC. 6. NORTHEAST CORRIDOR IMPROVEMENT PROJECT.

Section 704(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(1)) is amended—

State listings.

(1) by striking "and" before "installation of evacuation"; and

(2) by adding at the end the following: "improvements to the communication and signal systems at locations between Wilmington, Delaware, and Boston, Massachusetts, on the Northeast Corridor main line and between Philadelphia, Pennsylvania, and Harrisburg, Pennsylvania, on the Harrisburg Line; improvement to the electric traction systems between Wilmington, Delaware, and Newark, New Jersey; installation of baggage rack restraints, seat back guards and seat lock devices on three hundred forty-eight passenger cars operating within the Northeast Corridor; installation of forty-four event recorders and ten electronic warning devices on locomotives operating within the Northeast Corridor; and acquisition of cab signal test boxes and installation of nine wayside loop code transmitters for use within the Northeast Corridor;".

102 STAT. 628

SEC. 7. JURISDICTION OVER HIGH SPEED RAIL SYSTEMS.

(a) Section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e)) is amended to read as follows:

"(e) The term 'railroad' as used in this title means all forms of non-highway ground transportation that run on rails or electromagnetic guideways, including (1) commuter or other short-haul rail passenger service in a metropolitan or suburban area, as well as any commuter rail service which was operated by the Consolidated Rail Corporation as of January 1, 1979, and (2) high speed ground transportation systems that connect metropolitan areas, without regard to whether they use new technologies not associated with traditional railroads. Such term does not include rapid transit operations within an urban area that are not connected to the general railroad system of transportation.".

(b) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by striking subsections (i), (j), and (k), and redesignating subsection (l), as added by section 4 of this Act, as subsection (i).

SEC. 8. ENFORCEMENT OF SUBPOENAS AND ORDERS.

Business and industry. Corporations. Courts, U.S.

Section 208(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437(a)) is amended by striking "Act;" and all that follows and inserting in lieu thereof the following: "title. In case of contumacy or refusal to obey a subpoena, order, or directive of the Secretary issued under this title by any individual, partnership, or corporation that resides, is found, or conducts business within the jurisdiction of

any district court of the United States, such district court shall have jurisdiction, upon petition by the Attorney General, to issue to such individual, partnership, or corporation an order requiring immediate compliance with the Secretary's subpoena, order, or directive.".

SEC. 9. AUTOMATIC TRAIN CONTROL AND RELATED SYSTEMS.

Section 202 of the Federal Railroad Safety Act of 1970 is amended by adding at the end the following new subsections:

"(j) Within 90 days after the date of enactment of this subsection, the Secretary shall issue such rules, regulations, orders, and standards as may be necessary to require that— Regulations.

"(1) whoever performs any test required by the Secretary of an automatic train stop, train control, or cab signal apparatus prior to entering territory where such apparatus will be used shall certify in writing that such test was properly performed; and

"(2) that such certification shall be kept and maintained in the same manner and place as the daily inspection report for that locomotive. Records.

"(k)(1) All trains operating after April 1, 1990, on the main line of the Northeast Corridor betwen Washington, D.C., and Boston, Massachusetts, or on the feeder line referred to in section 704(a)(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976, shall be equipped with automatic train control systems designed to slow or stop a train in response to external signals. Effective date. District of Columbia. Massachusetts. 102 STAT. 629

"(2) If the Secretary finds that it is impracticable to equip all trains as required under paragraph (1) before April 1, 1990, the Secretary may extend the deadline for compliance with such requirement, but in no event shall such deadline be extended past July 1, 1990.

"(l) The Secretary, in consultation with the National Railroad Passenger Corporation, freight carriers, commuter agencies, employee representatives, railroad passengers, and rail equipment manufacturers, shall undertake a study of the advisability and feasibility of requiring automatic train control systems, including systems using advanced technology, such as transponder and satellite relay systems, on each rail corridor on which passengers or hazardous materials are carried. Such study shall include—

"(1) a specific assessment of the dangers of not requiring automatic train control systems on each such corridor, based on analysis of the number of passenger trains, persons, and freight trains traveling on such corridor daily, the frequency of train movements, mileage traveled, and the incident and accident history on such corridor;

"(2) an analysis of the cost of requiring such systems to be installed on each specific corridor; and

"(3) an investigation of alternative means of accomplishing the same safety objectives as would be achieved by requiring automatic train control systems to be installed.

The Secretary shall submit to the Congress by April 1, 1990, a report detailing the results of such study.". Reports.

SEC. 10. EVENT RECORDERS.

Section 202 of the Federal Railroad Safety Act of 1970 is amended by adding at the end the following new subsection: 45 USC 431.

"(m)(1)(A) The Secretary shall, within 18 months after the date of the enactment of the Rail Safety Improvement Act of 1988, issue such rules, regulations, standards, and orders as may be necessary to enhance safety by requiring that trains be equipped with event recorders within 1 year after such rules, regulations, orders, and standards are issued. Regulations.

"(B) If the Secretary finds that it is impracticable to equip trains as required under subparagraph (A) within the time limit under such subparagraph, the Secretary may extend the deadline for compliance with such requirement, but in no event shall such

deadline be extended past 18 months after such rules, regulations, orders, and standards are issued.

"(2) For the purposes of this subsection, the term 'event recorders' means devices that—

"(A) record train speed, hot box detection, throttle position, brake application, brake operations, and any other function the Secretary considers necessary to record to assist in monitoring the safety of train operation, such as time and signal indication; and

"(B) are designed to resist tampering.".

45 USC 431 note.

SEC. 11. NORTHEAST CORRIDOR SAFETY COMMITTEE.

Establishment.

(a) Within 30 days after the date of enactment of this Act, the Secretary of Transportation (hereafter in this Act referred to as the "Secretary") shall establish a Northeast Corridor Safety Committee and appoint members to the Committee which shall consist of

102 STAT. 630

representatives of—

(1) the Secretary;

(2) the National Railroad Passenger Corporation;

(3) freight carriers operating more than 150,000 train miles per year on the main line of the Northeast Corridor;

(4) commuter agencies;

(5) railroad passengers;

(6) rail labor; and

(7) any other persons or organizations the Secretary determines to have a significant interest in rail safety.

(b) The Secretary shall consult with the Northeast Corridor Safety Committee on safety improvements on the main line of the Northeast Corridor

Transportation.

(c) Within 90 days after the date of enactment of this Act, the Secretary shall, in accordance with section 333 of title 49, United States Code, convene a meeting of rail carriers operating more than 150,000 train miles per year on the main line of the Northeast Corridor for the purpose of reducing through freight traffic on portions of such line used primarily for passenger traffic.

Reports.

(d) Within one year after the date of enactment of this Act the Secretary shall submit a report to the Congress on the status of efforts to improve safety on the main line of the Northeast Corridor pursuant to the provisions of this section.

SEC. 12. MISCELLANEOUS.

Section 211(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 440(c)) is repealed.

SEC. 13. AMENDMENTS TO SAFETY APPLIANCE ACTS.

The Act of March 2, 1893 (45 U.S.C. 1-7), the Act of March 2, 1903 (45 U.S.C. 8-10), and the Act of April 14, 1910 (45 U.S.C. 11-16), commonly referred to as the Safety Appliance Acts, are amended as follows:

(1) The Act of March 2, 1893, is amended—

(A) in the first section (45 U.S.C. 1)—

(i) by striking "common carrier engaged in interstate commerce by";

(ii) by striking "in moving interstate traffic"; and

(iii) by striking "in such traffic";

(B) in section 2 (45 U.S.C. 2)—

(i) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(ii) by striking "used in moving interstate traffic";

(C) in section 3 (45 U.S.C. 3), by striking "person, firm, company, or corporation engaged in interstate commerce by";

(D) in section 4 (45 U.S.C. 4), by striking "in interstate commerce";

(E) in section 5 (45 U.S.C. 5)—

(i) by striking "common carriers" and inserting in lieu thereof "railroads";

(ii) by striking "engaged in interstate commerce"; and

(iii) by striking "in interstate traffic";

(F) in section 6 (45 U.S.C. 6)—

(i) by striking all before the first semicolon and inserting in lieu thereof the following: "Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) using any locomotive engine, running any train, or hauling or permitting to be hauled or used on its line any car in violation of any of the provisions of this Act, shall be liable to a penalty in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), or where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, not to exceed $20,000, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered in a suit or suits to be brought by the United States attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office"; and

Claims.
Courts, U.S.
102 STAT. 631

(ii) by adding at the end the following: "For purposes of this section, an act by an individual that causes a railroad to be in violation of any of the provisions of this Act shall be deemed a violation, and an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor, under protest communicated to the supervisor. Such individual shall have the right to document such protest.";

Records.

(G) in section 7, by striking "common carrier" and inserting in lieu thereof "railroad"; and

(H) in section 8 (45 U.S.C. 7)—

(i) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(ii) by striking "such carrier" and inserting in lieu thereof "such railroad".

(2) The Act of March 2, 1903, is amended—

(A) in the first section (45 U.S.C. 8), by striking "common carriers by" and by striking "engaged in interstate commerce" the second time it appears;

(B) in section 2 (45 U.S.C. 9)—

(i) by striking "common carriers engaged in interstate commerce by railroad" and inserting in lieu therof "railroads"; and

(ii) by striking "engaged in interstate commerce"; and

(C) in section 3 (45 U.S.C. 10), by striking "common carrier" and inserting in lieu thereof "person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad)".

(3) The Act of April 14, 1910, is amended—

(A) in section 2 (45 U.S.C. 11), by striking "common carrier" and inserting in lieu thereof "railroad";

(B) in section 3 (45 U.S.C. 12)—

(i) by striking "in interstate or foreign traffic" wherever it appears;

102 STAT. 632

(ii) by striking "common carrier" and inserting in lieu thereof "railroads"; and

(iii) by striking "common carrier" and inserting in lieu thereof "railroad";

(C) in section 4 (45 U.S.C. 13)—

(i) by striking "common carrier subject to this Act" and inserting in lieu thereof "person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad)";

(ii) by striking "carrier" wherever it appears and inserting in lieu thereof "person";

Claims.

(iii) by striking "of not less than $250 and not more than $2,500 for each and every such violation, to" and inserting in lieu thereof the following: "in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), or where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, not to exceed $20,000, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation. Such penalty shall";

Courts, U.S.

(iv) by striking "and recovered"and inserting in lieu thereof the following: "and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered"; and

(v) by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor under protest communicated to the supervisor. Such individual shall have the right to document such protest.";

Records.

(D) in section 5 (45 U.S.C. 14), by striking "common carrier" and inserting in lieu thereof "railroad"; and

(E) by amending the first section (45 U.S.C. 16) to read as follows: "That as used in this Act, the Act of March 2, 1893 (45 U.S.C. 1-7), and the Act of March 2, 1903 (45 U.S.C. 8-10), commonly known as the Safety Appliance Acts, the term 'railroad' shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).".

SEC. 14. AMENDMENTS TO LOCOMOTIVE INSPECTION ACT.

The Act entitled "An Act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto", approved February 17, 1911 (45 U.S.C. 22 et seq.), is amended—

(1) by amending the first section (45 U.S.C. 22) to read as follows: "That the term 'railroad', when used in this Act, shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).";

102 STAT. 633

(2) in section 2 (45 U.S.C. 23), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(3) in section 3 (45 U.S.C. 24), by striking "common carriers" and inserting in lieu thereof "railroads";

(4) in section 5 (45 U.S.C. 28)—

(A) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(B) by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(5) in section 6 (45 U.S.C. 29), by striking "carrier" and "carriers" wherever they appear and inserting in lieu thereof "railroad" and "railroads", respectively;

(6) in section 8 (45 U.S.C. 32), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad"; and

(7) in section 9 (45 U.S.C. 34)—

(A) by striking all before the first semicolon and inserting in lieu thereof the following: "Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) violating this Act, or any rule or regulation made under its provisions or any lawful order of any inspector, shall be liable to a penalty in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), or where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, not to exceed $20,000, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation. Such penalty shall be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered in a suit or suits to be brought by the United States attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office"; and Claims. Courts, U.S.

(B) by adding at the end the following: "For purposes of this section, an act by an individual that causes a railroad to be in violation of any of the provisions of this Act, or any rule or regulation made under its provisions or any lawful order of any inspector, shall be deemed a violation, and an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor under protest communicated to the supervisor. Such individual shall have the right to document such protest.". Records.

SEC. 15. AMENDMENTS TO ACCIDENT REPORTS ACT.

The Act entitled "An Act requiring common carriers engaged in interstate and foreign commerce to make full reports of all accidents to the Interstate Commerce Commission, and authorizing investigations thereof by said commission", approved May 6, 1910 (45 U.S.C. 38 et seq.) is amended—

(1) in the first section (45 U.S.C. 38)—

(A) by striking "common carrier engaged in interstate or foreign commerce by";

(B) by striking "carriers" and by inserting in lieu thereof "railroads"; and

(C) by adding at the end the following: "The term 'railroad' when used in this Act shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).";

(2) in section 2 (45 U.S.C. 39)—

(A) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(B) by striking the last sentence;

(3) in section 3 (45 U.S.C. 40)—

(A) by striking "common carrier engaged in interstate or foreign commerce by"; and

(B) by striking "carriers" and inserting in lieu thereof "railroads";

(4) by amending section 7 (45 U.S.C. 43) to read as follows:

"SEC. 7. Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) violating this Act or any rule, regulation, order, or standard issued under this Act or the Federal Railroad Safety Act of 1970 pertaining to accident reporting or investigations shall be liable for a penalty in such amount, not less thant $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), Claims. Courts, U.S.

or where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, not to exceed $20,000, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation. Such penalty shall be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered in a suit or suits to be brought by the United States attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendent has its principal executive office. For purposes of this section, an act by an individual that causes a railroad to be in violation of any of the provisions of this Act or any rule, regulation, order, or standard issued under this Act or the Federal Railroad Safety Act of 1970 pertaining to accident reporting or investigations shall be deemed a violation, and an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor under protest communicated to the supervisor. Such individual shall have the right to document such protest.".

Records.

SEC. 16. AMENDMENTS TO HOURS OF SERVICE ACT.

The Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), is amended—

(1) in the first section (45 U.S.C. 61)—

(A) in subsection (a), by striking "common carrier engaged in interstate or foreign commerce by";

(B) in subsection (b)(1), by striking all after "term" and inserting in lieu thereof "'railroad' shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).''; and

(C) in subsection (b)(4), by striking "carrier" and inserting in lieu thereof "railroad";

(2) in section 2 (45 U.S.C. 62), by striking "common carrier" wherever it appears and inserting in lieu thereof "railroad";

102 STAT. 635

(3) in section 3 (45 U.S.C. 63), by striking "common carrier" and inserting in lieu thereof "railroad";

(4) in section 3A (45 U.S.C. 63a), by striking "common carrier" and "carrier" wherever they appear and inserting in lieu thereof "railroad";

(5) in section 4 (45 U.S.C. 64), by striking "common carrier" and inserting in lieu thereof "railroad";

(6) in section 5 (45 U.S.C. 64a)—

(A) by amending subsection (a)(1) to read as follows:

Claims. Courts, U.S.

"(a)(1) Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) that requires or permits any employee to go, be, or remain on duty in violation of section 2, section 3, or section 3A of this Act, or that violates any other provision of this Act, shall be liable for a penalty of up to $1,000 per violation, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation. Such penalty shall be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered in a suit or suits to be brought by the United States attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office. It shall be the duty of the United States attorney to bring such an action upon satisfactory information being lodged with him. In the case of a violation of section 2 (a)(3) or (a)(4) of this Act, each day a facility is in noncompliance shall constitute a separate offense. For purposes of this section, an act by an individual that causes a railroad to be in violation of this Act shall be deemed a violation, and an individual shall be deemed not to have committed a willful violation where such individual has

acted pursuant to the direct order of a railroad official or supervisor under protest communicated to the supervisor. Such individual shall have the right to document such protest."; Records.

(B) in subsection (a)(2), by striking "the common carrier" and inserting in lieu thereof "such person";

(C) in subsection (c), by striking "common carrier" and inserting in lieu thereof "railroad"; and

(D) in subsection (d), by striking "carrier" and inserting in lieu thereof "railroad".

SEC. 17. AMENDMENTS TO SIGNAL INSPECTION ACT.

Section 25 of the Act of February 4, 1887 (49 App. U.S.C. 26) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The term 'railroad' as used in this section shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).";

(2) in subsection (b), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad", and by striking "carriers" and inserting in lieu thereof "railroads";

(3) in subsection (c)—

(A) by striking "carrier by"; and

(B) by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(4) in subsection (d), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad"; 102 STAT. 636

(5) in subsection (e), by striking "carrier" and inserting in lieu thereof "railroad";

(6) in subsection (f), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(7) in subsection (h)—

(A) by amending the first sentence to read as follows: "Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) violating any provision of this section, or failing to comply with any of the rules, regulations, orders, standards, or instructions made, prescribed, or approved hereunder shall be liable to a penalty in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), or where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, not to exceed $20,000, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation. Such penalty shall be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered in a suit or suits to be brought by the United States attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office."; and Claims. Courts, U.S.

(B) by adding at the end the following: "For purposes of this section, an act by an individual that causes a railroad to be in violation of any of the provisions of this section, or to fail to comply with any of the rules, regulations, orders, standards, or instructions made, prescribed, or approved under this section, shall be deemed a violation, and an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor under protest communicated to the supervisor. Such individual shall have the right to document such protest."; and Records.

(8) by striking "Commission" wherever it appears, except as it appears in subsection (f) in the title of the Act of May 6, 1910, and inserting in lieu thereof "Secretary of Transportation"

SEC. 18. RAIL PASSENGER SERVICE AMENDMENTS.

(a) Section 301 of the Rail Passenger Service Act (45 U.S.C. 541) is amended by striking "agency" and inserting in lieu thereof "agency, instrumentality, authority, or entity,".

(b) Section 303(a)(1)(E) of the Rail Passenger Service Act (45 U.S.C. 543(a)(1)(E)) is amended to read as follows:

"(E) Two members selected by the preferred stockholders of the Corporation, who each shall serve for a term of one year or until their successors have been appointed.".

(c) Section 303(d) of the Rail Passenger Service Act (45 U.S.C. 543(d)) is amended by striking the third sentence and inserting in lieu thereof the following: "The president and other officers of the Corporation shall receive compensation at a level no higher than the general level of compensation paid officers of railroads in positions of comparable responsibility.".

102 STAT. 637

(d) Section 308(a) of the Rail Passenger Service Act (45 U.S.C. 548(a)) is amended by inserting immediately after "also" in the last sentence the following: "provide all relevant information concerning any decision to pay to any officer of the Corporation compensation at a rate in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, United States Code, and".

(e) Section 602(i) of the Rail Passenger Service Act (45 U.S.C. 602(i)) is repealed.

(f) Subsection (b) of the first section of the Act entitled "An Act to amend the Rail Passenger Service Act of 1970 in order to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes", approved June 22, 1972 (Public Law 92-316; 86 Stat. 227), is repealed.

45 USC 543 note.
45 USC 650a.

(g)(1) The National Railroad Passenger Corporation (hereafter in this subsection referred to as "Amtrak"), or the owner of any facility which presents a danger to the employees, passengers, or property of Amtrak, may petition the Secretary for assistance to the owner of such facility for relocation or other remedial measures to minimize or eliminate such danger under this subsection.

(2) If the Secretary determines that—

(A) a facility which is the subject of a petition under paragraph (1) presents a danger of death or serious injury to any employee or passenger of Amtrak or serious damage to any property of Amtrak; and

(B) the owner of such facility should not be expected to bear the cost of relocating or other remedial measures necessary to minimize or eliminate such danger,

the Secretary shall recommend to the Congress that the Congress authorize funding, by reimbursement or otherwise, for such relocation or other remedial measures.

(3) Petitions may be submitted under paragraph (1) with respect to any relocation or remedial measures undertaken on or after January 1, 1978.

Appropriation authorization.
45 USC 650a note.

(h)(1) There is authorized to be appropriated to the Secretary for the purposes of this subsection, $1,000,000, to remain available until expended.

(2) The National Railroad Passenger Corporation, or such Corporation jointly with any owner or operator of a rail station used for the operations of such Corporation, may apply to the Secretary for funds appropriated under this subsection for payment or reimbursement of expenses, incurred after October 1, 1987, in connection with enabling such station to comply with the requirements of any official notice received before October 1, 1987, from State or local authorities asserting that a violation of building, construction, fire, electric, sanitation, mechanical, or plumbing codes exists or is alleged to exist with respect to such station.

SEC. 19. MAINTENANCE-OF-WAY OPERATIONS.

(a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(n) The Secretary shall, within one year after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary for the safety of maintenance-of-way employees, including standards for bridge safety equipment, such as nets, walkways, handrails, and safety lines, and requirements relating to instances when boats shall be used.". Regulations. Bridges. Maritime affairs.

102 STAT. 638

(b)(1) Section 2 of the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 62), is amended by adding at the end the following:

"(e) As used in section 2(a)(3) of this Act, the term 'employees' shall include an individual employed for the purpose of maintaining the right-of-way of any railroad.".

(2) As it applies to interruptions caused by noise under section 2(a)(3) of such Act, the amendment made by paragraph (1) shall take effect 180 days after the date of the enactment of this Act. Effective date. 45 USC 62 note.

(c) The Secretary shall, within one year after the date of the enactment of this Act, amend part 218 of title 49, Code of Federal Regulations, to apply blue signal protection to on-track vehicles where rest is provided.

SEC. 20. GRADE CROSSING DEMONSTRATION PROJECTS.

The Federal Railroad Safety Act of 1970 is amended by adding at the end the following new section:

"SEC. 215. GRADE CROSSING DEMONSTRATION PROJECTS. 45 USC 445. Highways.

"(a) The Federal Railroad Administration shall establish demonstration projects for the purpose of evaluating—

"(1) whether reflective markers installed on the road surface or on a signal post at grade crossings would reduce accidents involving trains;

"(2) whether a stop sign or yield sign installed at grade crossings would reduce such accidents; and

"(3) whether speed bumps or rumble strips installed on the road surface at the approach to grade crossings would reduce such accidents.

"(b) The Federal Railroad Administration shall, within two years after the date of the enactment of the Rail Safety Improvement Act of 1988, report to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate on the results of the demonstration projects established under subsection (a). Reports.

"(c) There is authorized to be appropriated to the Secretary of Transportation for improvements in grade crossing safety other than the demonstration projects provided for under subsection (a), $1,000,000, to remain available until expended.". Appropriation authorization.

SEC. 21. TAMPERING WITH SAFETY DEVICES.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(o)(1) The Secretary shall, within 90 days after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to prohibit the willful tampering with, or disabling of, specified railroad safety or operational monitoring devices. Regulations.

"(2)(A) Any railroad company operating a train on which safety or operational monitoring devices are tampered with or disabled in violation of rules, regulations, orders, or standards issued by the Secretary under paragraph (1) shall be liable for a civil penalty under section 209.

"(B) Any individual tampering with or disabling safety or operational monitoring devices in violation of rules, regulations, orders, or standards issued by the Secretary under paragraph (1), or who knowingly operates or permits to be operated a train on which such devices have been tampered with or disabled by another person, shall be liable for such penalties as may be established by the

102 STAT. 639

Secretary, which may include fines under section 209, suspension from work, or suspension or loss of a license or certification issued under subsection (i).".

SEC. 22. DISPATCHER TRAINING.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(p)(1) The Secretary shall, within 180 days after the date of the enactment of the Rail Safety Improvement Act of 1988, conduct and complete an inquiry into whether training standards are necessary for those involved in dispatching trains.

Reports.

"(2) Upon the completion of such inquiry, the Secretary shall report the results of such inquiry to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate along with the Secretary's recommendations, and if the Secretary recommends that rules, regulations, orders, or standards be issued, the Secretary shall promptly initiate appropriate rulemaking proceedings.".

SEC. 23. GRADE CROSSING SIGNAL SYSTEM SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

Regulations.
Highways.

"(q) The Secretary shall, within one year after the date of the enactment of the Rail Safety Improvement Act of 1988, issue such rules, regulations, orders, and standards as may be necessary to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings.".

45 USC 43a.

SEC. 24. ACCIDENT REPORTS.

If a railroad, in reporting an accident or incident under the Accident Reports Act (45 U.S.C. 38 et seq.), assigns human error as a cause of the accident or incident, such report shall include, at the option of each employee whose error is alleged, a statement by such employee explaining any factors the employee alleges contributed to the accident or incident.

Approved June 22, 1988.

LEGISLATIVE HISTORY—S. 1539 (H.R. 3743):

HOUSE REPORTS: No. 100-637 (Comm. of Conference).
SENATE REPORTS: No. 100-153 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Nov. 5, S. 1539 considered and passed Senate.
Dec. 18, H.R. 3743 considered and passed House.
Vol. 134 (1988): Feb. 3, S. 1539 considered and passed House, amended.
May 23, House agreed to conference report.
June 9, Senate agreed to conference report.

102 STAT. 876 Public Law 100-372
100th Congress

An Act

July 19, 1988
[S. 623]

To amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1987, 1988, 1989, and 1990, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Independent Safety Board Act Amendments of 1988.
Transportation.
49 USC app. 1901 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Safety Board Act Amendments of 1988".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—Section 309 of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1907) is amended by adding at the end the following: "There are authorized to be appropriated for the purposes of this Act not to exceed $25,400,000 for the fiscal year ending September 30, 1988; $27,000,000 for the fiscal year ending September 30, 1989; and $28,600,000 for fiscal year ending September 30, 1990. Such sums shall remain available until expended.".

(b) ESTABLISHMENT OF EMERGENCY FUND.—Section 309 of such Act is further amended by inserting "(a)" after "309." and by adding at the end the following new subsection:

"(b) An emergency fund of $1,000,000 is authorized for expenditure by the Board to be available for necessary expenses, not otherwise provided for, of the Board for accident investigations. There is authorized to be appropriated such sums as may be necessary to establish the emergency fund under the preceding sentence and to replenish the fund annually. Such sums are authorized to remain available until expended.".

SEC. 3. ELIMINATION OF CERTAIN NOTICE REQUIREMENTS.

(a) REPORTS.—Section 304(a)(2) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(a)(2)) is amended by striking "and to cause notice of the issuance and availability of such reports to be published in the Federal Register". Federal Register, publication.

(b) SAFETY RECOMMENDATIONS.—The last sentence of section 307(a) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1906(a)) is amended to read as follows: "The Board shall make copies of each such recommendation and response thereto available to the public at reasonable cost.". Public information.

SEC. 4. TRAINING SCHOOLS.

Section 304(b) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(b)) is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) The Board may at any time utilize on a reimbursable basis the services of the Transportation Safety Institute of the Department of Transportation (established for the purpose of developing courses and conducting training in safety and security for all modes of transportation) or any successor organization. The Secretary shall continue to make available such Institute or successor organization (A) to the Board for safety training of employees of the Board in the performance of all of their authorized functions, and (B) to such other safety personnel of Federal, interstate, State, local, and foreign governments and non-governmental organizations as the Board may from time to time designate in consultation with the Secretary. Utilization of such training at the Institute or successor organization by any designated non-Federal safety personnel shall be at a reasonable fee to be established periodically by the Board in consultation with the Secretary. Such fee shall be paid directly to the Secretary for the credit of the proper appropriation, subject to the requirements of any annual appropriation, and shall be an offset against any annual reimbursement agreement entered into between the Board and the Secretary to cover all reasonable direct and indirect costs incurred for all such training by the Secretary in the administration and operation of the Institute or successor organization. The Board shall maintain an annual record of all such offsets. In providing such training to Federal employees, the Board shall be subject to chapter 41 of title 5, United States Code (relating to training of employees).". 102 STAT. 877 State and local governments. Contracts. Records.

SEC. 5. PAYMENT FOR GOODS AND SERVICES.

Section 304(b)(6) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(b)(6)) is amended by striking "and" before "(G)" and by striking the period at the end and inserting the follow- State and local governments.

ing: "; and (H) require payment or other appropriate consideration from Federal agencies, and State, local, and foreign governments for the reasonable cost of goods and services supplied by the Board and to apply the funds received to the Board's appropriations.".

Approved July 19, 1988.

LEGISLATIVE HISTORY—S. 623 (H.R. 11):

HOUSE REPORTS: No. 100-158, Pt. 1 (Comm. on Public Works and Transportation) and Pt. 2 (Comm. on Energy and Commerce), both accompanying H.R. 11.
SENATE REPORTS: No. 100-18 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Mar. 25, S. 623 considered and passed Senate.
Vol. 134 (1988): Apr. 12, H.R. 11 considered and passed House; proceedings vacated and S. 623, amended, passed in lieu.
July 6, Senate concurred in House amendments.

102 STAT. 1836

Public Law 100-448
100th Congress

An Act

Sept. 28, 1988
[H.R. 2342]

To authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Coast Guard Authorization Act of 1988.
Maritime affairs.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1988".

SEC. 2. AUTHORIZATIONS OF APPROPRIATIONS.

(a) NECESSARY EXPENSES.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1988 and 1989, as follows:

(1) OPERATION AND MAINTENANCE.—For operation and maintenance of the Coast Guard, $1,949,813,000 for fiscal year 1988 and $2,100.506,000 for fiscal year 1989.

(2) ACQUISITION AND CONSTRUCTION.—For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $277,893,000 for fiscal year 1988 and $348,000,000 for fiscal year 1989, to remain available until expended.

(3) RESEARCH AND DEVELOPMENT.—For research, development, test, and evaluation, $20,119,000 for fiscal year 1988 and $19,000,000 for fiscal year 1989, to remain available until expended.

(4) RETIRED PAY AND MEDICAL CARE.—For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, $386,700,000 for fiscal year 1988 and $410,800,000 for fiscal year 1989, to remain available until expended.

(5) ALTERATION OR REMOVAL OF BRIDGES.—For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $8,500,000 for fiscal year 1989.

(b) TRANSFER OF FUNDS APPROPRIATED.—If funds for carrying out the purposes described in subsection (a) are appropriated to an officer or agency of the United States other than the Secretary of the department in which the Coast Guard is operating or the Coast Guard, that officer or the head of that agency, respectively, may transfer to the Secretary of the department in which the Coast Guard is operating the full amount of those funds, and that Secretary shall allocate those funds to those purposes.

SEC. 3. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) STRENGTH FOR ACTIVE DUTY PERSONNEL.—The Coast Guard is authorized a strength for active duty personnel of 39,121 for fiscal year 1988 and 39,121 for fiscal year 1989. The authorized strength does not include members of the Coast Guard Ready Reserve ordered to active duty under the authority of section 712 of title 14, United States Code.

(b) AVERAGE MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) RECRUIT AND SPECIAL TRAINING.—For recruit and special training, 3,600 student-years for fiscal year 1988 and 3,600 student-years for fiscal year 1989.

(2) FLIGHT TRAINING.—For flight training, 132 student-years for fiscal year 1988 and 132 student-years for fiscal year 1989.

(3) PROFESSIONAL TRAINING.—For professional training in military and civilian institutions, 430 student-years for fiscal year 1988 and 430 student-years for fiscal year 1989.

(4) OFFICER ACQUISITION.—For officer acquisition, 950 student-years for fiscal year 1988 and 950 student-years for fiscal year 1989.

SEC. 4. TRANSFER OF AMOUNTS FOR OPERATIONS AND MAINTENANCE.

(a) IN GENERAL.—Whenever the Secretary of the department in which the Coast Guard is operating determines it to be in the national interest, the Secretary may transfer not more than 5 percent of the amounts appropriated for fiscal years 1988 and 1989 for the purposes described in section 2(a)(2) to the Commandant of the Coast Guard for discretionary use in meeting unanticipated needs for Coast Guard operation and maintenance.

(b) NOTICE TO CONGRESS.—A transfer of amounts under subsection (a) may not be made until 15 days after the Secretary provides to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives written notice—

(1) describing the proposed transfers;

(2) stating the reasons for the determination under subsection (a); and

(3) describing the purposes for which the amounts to be transferred will be used.

SEC. 5. LIMITATION ON CONTRACTING PERFORMED BY COAST GUARD.

10 USC 2304 note.

(a) MAINTENANCE OF LOGISTICS CAPABILITY.—

(1) STATEMENT OF NATIONAL INTEREST.—It is in the national interest for the Coast Guard to maintain a logistics capability (including personnel, equipment, and facilities) to provide a ready and controlled source of technical competence and resources necessary to ensure the effective and timely performance of Coast Guard missions in behalf of the security, safety, and economic and environmental well-being of the United States.

(2) SUBMISSION OF LIST OF NECESSARY ACTIVITIES; LIMITATION ON CONTRACTING.—(A) Not later than January 31 of each year, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and

102 STAT. 1838

Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives a list of Coast Guard activities that are necessary for maintaining the logistics capability described in paragraph (1). If the Secretary does not submit such list by that date, no activity performed by Coast Guard personnel may be contracted for performance by non-Government personnel after that date until the list is submitted to such committees.

(B) The list submitted by the Secretary under this section shall not include—

(i) any activity that is being performed under contract by non-Government personnel on the date of enactment of this Act; or

(ii) any activity for which the Congress received, prior to the date of the enactment of this Act, a written notification of intent to contract pursuant to section 14(b)(2) of Public Law 98-557 (98 Stat. 2864).

(b) PROHIBITION ON CONTRACTING FOR PERFORMANCE OF LISTED ACTIVITIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), performance by non-Government personnel of an activity included in a list under subsection (a)(2)(A) may not be contracted for after the date on which the list is submitted by the Secretary in accordance with subsection (a)(2).

(2) WAIVER OF PROHIBITION.—The Secretary may waive paragraph (1) with respect to any activity if the Secretary determines that the performance of that activity by Government personnel is no longer necessary to ensure the effective and timely performance of Coast Guard missions.

(3) EFFECTIVE DATE OF WAIVER; SUBMISSION OF STATEMENT.—A waiver under paragraph (2) shall not take effect until after a period of 30 days in which either the Senate or House of Representatives is in session after the Secretary submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a complete written statement concerning the waiver and the reasons therefor.

(c) SUBMISISON OF LIST OF ACTIVITIES CONTRACTED FOR PERFORMANCE.—At least 30 days before the beginning of each fiscal year, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a list of activities that will be contracted for performance by non-Government personnel under the procedures of Office of Management and Budget Circular A-76 during that fiscal year.

State and local governments.

(d) EMPLOYMENT OF LOCAL RESIDENTS TO PERFORM CONTRACTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, each contract awarded by the Coast Guard in fiscal years 1988 and 1989 for construction or services to be performed in whole or in part in a State which has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The Secretary of

102 STAT. 1839

the department in which the Coast Guard is operating may waive this subsection in the interest of national security or economic efficiency.

(2) LOCAL RESIDENT DEFINED.—As used in this subsection, the term "local resident" means a resident of a State described in paragraph (1), and any individual who commutes daily to a State described in paragraph (1).

SEC. 6. BOAT SAFETY PROGRAM.

(a) TRANSFERS TO AND EXPENDITURES FROM BOAT SAFETY ACCOUNT.—

(1) TRANSFERS TO ACCOUNT.—

(A) INCREASE IN MAXIMUM TRANSFER AND MAXIMUM AMOUNT IN ACCOUNT.—Subclauses (I) and (II) of subsection 9503(c)(4)(A)(ii) of the Internal Revenue Code of 1986 (relating to limitations on transfers to and amounts in the Boat Safety Account) are each amended by striking "for Fiscal Year 1987 only and $45,000,000 for each Fiscal Year thereafter" and inserting in lieu thereof "for each of fiscal years 1989 and 1990 and $70,000,000 for each fiscal year thereafter". 26 USC 9503.

(B) TECHNICAL AMENDMENT.—Subparagraph (E) of section 9503(c)(4) of the Internal Revenue Code of 1986 (relating to the amount of payments to the Aquatic Resources Trust Fund) is amended by striking the second sentence.

(2) EXTENSION OF EXPENDITURE AUTHORITY.—Subsection (c) of section 9504 of the Internal Revenue Code of 1986 (relating to expenditures from the Boat Safety Account) is amended—

(A) by striking "before April 1, 1989," and inserting "before April 1, 1994,"; and

(B) by striking "(as in effect on June 1, 1984)" and inserting "(as in effect on October 1, 1988)".

(3) CORRECTION OF CLERICAL ERRORS.—Subclauses (I) and (II) of section 9503(c)(4)(A)(ii) of the Internal Revenue Code of 1986 are each amended—

(A) by striking the quotation marks following "$60,000,000"; and

(B) by striking the semicolon before the period.

(b) BOATING SAFETY PROGRAMS.—

(1) AUTHORIZATION OF CONTRACT SPENDING.—

(A) STATE RECREATIONAL BOATING SAFETY PROGRAM ASSISTANCE.—Subsection (a) of section 13106 of title 46, United States Code (relating to authorization of contract spending for recreational boating safety programs), is amended as follows:

(i) The first sentence of subsection (a) is amended to read as follows: "(1) Subject to paragraph (2), the Secretary may expend in each fiscal year, subject to amounts as are provided in appropriations laws for liquidation of contract authority, an amount equal to ½ of the amount transferred for such fiscal year to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(4)).".

(ii) The following is added at the end of subsection (a): "(2) The Secretary shall use not less than one percent and not more than two percent of the amount appropriated each fiscal year for State recreational boating safety programs under this chapter to pay the costs of investigations, personnel, and activities related to administering those programs.". 102 STAT. 1840

(B) CONFORMING AMENDMENT.—Subsection (d) of section 7 of the Coast Guard Authorization Act of 1986 (Public Law 99-640) is repealed. 46 USC 13103 note.

(2) EXPENDITURES FOR COAST GUARD SERVICES.—Subsection (c) of section 13106 of title 46, United States Code, is amended—

(A) in the first sentence by striking "for Fiscal Year 1987 and one-third for each Fiscal Year thereafter."; and

(B) by inserting after the first sentence the following: "Expenditures for a fiscal year under this subsection shall not exceed expenditures for the fiscal year under subsection (a).".

(3) CLARIFICATION OF MATCHING RESTRICTIONS.—Section 13102(b) is amended in the first sentence by striking "from sources (except" and inserting in lieu thereof "(except amounts from".

(4) TECHNICAL AMENDMENT.—Section 13102(a) of title 46, United States Code, is amended in the first sentence by striking "1954." and inserting in lieu thereof "1986".

(5) TECHNICAL AMENDMENT.—Paragraph (4) of section 13102(a) of title 46, United States Code, is amended to read as follows:

State and local governments. Reports.

"(4) the program submitted by that State designates a State lead authority or agency that will carry out or coordinate carrying out the State recreational boating safety program supported by financial assistance of the United States Government in that State, including the requirement that the designated State authority or agency submit required reports that are necessary and reasonable to carry out properly and efficiently the program and that are in the form prescribed by the Secretary.".

(6) TECHNICAL AMENDMENT.—Subsection (c) of section 13106 of title 46, United States Code, is amended in the first sentence by striking "1954" and inserting "1986".

16 USC 777.

(c) SPORT FISH RESTORATION PROGRAMS.—

(1) STATE ALLOCATION OF ASSISTANCE BETWEEN MARINE AND FRESHWATER FISH PROJECTS.—Subsection (b) of the first section of the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes" (64 Stat. 430; 16 U.S.C. 777 et seq.) is amended to read as follows:

"(b) ALLOCATION OF AMOUNTS BY COASTAL STATES BETWEEN MARINE FISH PROJECTS AND FRESHWATER FISH PROJECTS.—

"(1) IN GENERAL.—Subject to paragraph (2), each coastal State, to the extent practicable, shall equitably allocate amounts apportioned to such State under this Act between marine fish projects and freshwater fish projects in the same proportion as the estimated number of resident marine anglers and the estimated number of resident freshwater anglers, respectively, bear to the estimated number of all resident anglers in that State.

"(2) PRESERVATION OF FRESHWATER PROJECT ALLOCATION AT 1988 LEVEL.—(A) Subject to subparagraph (B), the amount allocated by a State pursuant to this subsection to freshwater fish projects for each fiscal year shall not be less than the amount allocated by such State to such projects for fiscal year 1988.

"(B) Subparagraph (A) shall not apply to a State with respect to any fiscal year for which the amount apportioned to the State under this Act is less than the amount apportioned to the State under this Act for fiscal year 1988.

102 STAT. 1841

"(3) COASTAL STATE DEFINED.—As used in this subsection, the term 'coastal State' means any one of the States of Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Virginia, and Washington. The term also includes the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.".

(2) STATE USE OF CONTRIBUTIONS.—Such Act is further amended by adding at the end the following:

16 USC 777*l*.

"SEC. 13. STATE USE OF CONTRIBUTIONS.

Real property.

"A State may use contributions of funds, real property, materials, and services to carry out an activity under this Act in lieu of payment by the State of the State share of the cost of such activity. Such a State share shall be considered to be paid in an amount equal to the fair market value of any contribution so used.".

26 USC 9504.

(3) EXPENDITURES FROM TRUST FUND.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking "(as in effect on June 1, 1984)" and inserting "(as in effect on October 1, 1988)".

46 USC 13101 note.

(d) SURVEY OF FUEL USE BY RECREATIONAL VESSELS.—

(1) IN GENERAL.—The Secretary of Transportation and the Secretary of the Interior shall jointly conduct a survey of—

(A) the number, size, and primary uses of recreational vessels operating on the waters of the United States; and

(B) the amount and types of fuel used by those vessels.

(2) AUTHORIZATION OF CONTRACTS.—The Secretary of Transportation and the Secretary of the Interior may enter into contracts for the performance of a survey pursuant to this subsection.

(3) REPORT.—The Secretary of the Interior and the Secretary of Transportation shall jointly submit a report to the Speaker of the House of Representatives and to the President pro tempore of the Senate which describes the results of the survey conducted pursuant to this section not later than November 15, 1992.

(4) FUNDING.—Activities under this subsection may be carried out—

(A) using amounts available to the Secretary of the Interior for administrative expenses under the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes" (64 Stat. 430; 16 U.S.C. 777 et seq.); and

(B) subject to appropriations, using amounts available to the Secretary of Transportation under section 13106(a)(1) of title 46, United States Code (as amended by this Act).

(e) EFFECTIVE DATE.—This section shall take effect October 1, 1988. 16 USC 777 note.

SEC. 7. MANNING REQUIREMENTS FOR MOBILE OFFSHORE DRILLING UNITS.

Section 8301(a)(2) of title 46, United States Code, is amended to read as follows:

"(2) A vessel of at least 1,000 gross tons and propelled by machinery shall have 3 licensed mates, except—

"(A) in the case of a vessel other than a mobile offshore drilling unit, if on a voyage of less than 400 miles from port of departure to port of final destination, the vessel shall have 2 licensed mates; and

"(B) in the case of a mobile offshore drilling unit, the vessel shall have licensed individuals as provided by regulations prescribed by the Secretary under section 8101 of this title.".

SEC. 8. TRANSFER OF COAST GUARD PROPERTY AT LAKE WORTH INLET, FLORIDA.

(a) IN GENERAL.—In exchange for parcels of land, or any buildings or improvements located in and about Lake Worth Inlet in Palm Beach County, Florida, or in exchange for construction, improvements, or services to land or buildings in such area, the Secretary of the department in which the Coast Guard is operating may offer for consideration, and transfer, in whole or in part, any other parcels of land, and any buildings and improvements, located in and about Lake Worth Inlet in Palm Beach County, Florida, which have been held for the use of the Coast Guard. The exact acreage and legal description of the land to be transferred shall be as described in such surveys as may be satisfactory to the Secretary.

(b) PROCEDURE.—Each contracting action under this section shall be conducted in accordance with competitive bidding procedures prescribed by section 2304 of title 10, United States Code. Property may not be exchanged under this section for less than its fair market value or reasonably comparable value in property, construction, improvements, or services. Contracts.

SEC. 9. COAST GUARD ACADEMY ADVISORY COMMITTEE TERMINATION DATE.

Section 193 of title 14, United States Code, is amended by adding at the end the following new sentence: "The Committee terminates on September 30, 1992.".

SEC. 10. AUTHORITY FOR CIVILIAN AGENTS TO CARRY FIREARMS.

(a) IN GENERAL.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 95. Civilian agents authorized to carry firearms

Regulations.

"Under regulations prescribed by the Secretary with the approval of the Attorney General, civilian special agents of the Coast Guard may carry firearms or other appropriate weapons while assigned to official investigative or law enforcement duties.".

(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by adding at the end the following new item:

"95. Civilian agents authorized to carry firearms.".

SEC. 11. RELOCATION ASSISTANCE FOR COAST GUARD PERSONNEL.

102 STAT. 1843

Section 1013 of the Demonstration Cities Metropolitan Development Act of 1966 (42 U.S.C. 3374) is amended—

(1) in subsection (k) by striking "and (c)" and inserting "(c), and (n)"; and

(2) by adding at the end the following new subsection:

"(n)(1) Assistance under this section shall be provided by the Secretary of Defense with respect to Coast Guard bases and installations ordered to be closed, in whole or in part, after January 1, 1987. Such assistance shall be provided under terms equivalent to those under which assistance is provided under this section for closings of military bases and installations which are under the jurisdiction of the Secretary of Defense.

"(2) The Secretary of the department in which the Coast Guard is operating, if other than the Department of Defense, shall reimburse the Secretary of Defense for expenditures under this section made by the Secretary of Defense with respect to closings of Coast Guard bases and installations ordered when the Coast Guard is not operating as a service in the Navy. The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating shall enter into an agreement under which the Secretary of the department in which the Coast Guard is operating shall carry out such reimbursement.".

Contracts.

SEC. 12. COAST GUARD ACADEMY CADET SERVICE OBLIGATION.

Section 182 of title 14, United States Code, is amended—

(1) by striking the next to the last sentence of subsection (a); and

(2) by striking subsection (b) and inserting in lieu thereof the following new subsections:

"(b) Each cadet shall sign an agreement with respect to the cadet's length of service in the Coast Guard. The agreement shall provide that the cadet agrees to the following:

"(1) That the cadet will complete the course of instruction at the Coast Guard Academy.

"(2) That upon graduation from the Coast Guard Academy the cadet—

"(A) will accept an appointment, if tendered, as a commissioned officer of the Coast Guard; and

"(B) will serve on active duty for at least five years immediately after such appointment.

"(3) That if an appointment described in paragraph (2) is not tendered or if the cadet is permitted to resign as a regular officer before the completion of the commissioned service obligation of the cadet, the cadet—

"(A) will accept an appointment as a commissioned officer in the Coast Guard Reserve; and

"(B) will remain in that reserve component until completion of the commissioned service obligation of the cadet.

"(c)(1) The Secretary may transfer to the Coast Guard Reserve, and may order to active duty for such period of time as the Secretary prescribes (but not to exceed four years), a cadet who breaches an agreement under subsection (b). The period of time for

which a cadet is ordered to active duty under this paragraph may be determined without regard to section 651(a) of title 10.

"(2) A cadet who is transferred to the Coast Guard Reserve under paragraph (1) shall be transferred in an appropriate enlisted grade or rating, as determined by the Secretary.

"(3) For the purposes of paragraph (1), a cadet shall be considered to have breached an agreement under subsection (b) if the cadet is separated from the Coast Guard Academy under circumstances which the Secretary determines constitute a breach by the cadet of the cadet's agreement to complete the course of instruction at the Coast Guard Academy and accept an appointment as a commissioned officer upon graduation from the Coast Guard Academy. 102 STAT. 1844

"(d) The Secretary shall prescribe regulations to carry out this section. Those regulations shall include— Regulations.

"(1) standards for determining what constitutes, for the purpose of subsection (c), a breach of an agreement under subsection (b);

"(2) procedures for determining whether such a breach has occurred; and

"(3) standards for determining the period of time for which a person may be ordered to serve on active duty under subsection (c).

"(e) In this section, 'commissioned service obligation', with respect to an officer who is a graduate of the Academy, means the period beginning on the date of the officer's appointment as a commissioned officer and ending on the sixth anniversary of such appointment or, at the discretion of the Secretary, any later date up to the eighth anniversary of such appointment.

"(f)(1) This section does not apply to a cadet who is not a citizen or national of the United States.

"(2) In the case of a cadet who is a minor and who has parents or a guardian, the cadet may sign the agreement required by subsection (b) only with the consent of the parent or guardian.". Children and youth.

SEC. 13. RETROACTIVE PAY FOLLOWING ADMINISTRATIVE ERROR.

(a) IN GENERAL.—Chapter 13 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 513. Retroactive payment of pay and allowances delayed by administrative error or oversight

"Under regulations prescribed by the Secretary, the Coast Guard may authorize retroactive payment of pay and allowances, including selective reenlistment bonuses, to enlisted members if entitlement to the pay and allowances was delayed in vesting solely because of an administrative error or oversight.". Regulations.

(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by adding at the end the following new item:

"513. Retroactive payment of pay and allowances delayed by administrative error or oversight.".

SEC. 14. TECHNICAL AMENDMENTS TO INLAND NAVIGATIONAL RULES.

Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. chapter 2001 et seq.) is amended—

(1) by striking "minesweeping" in Rule 3(g)(v) (33 U.S.C. 2003(g)(v)) and inserting in lieu thereof "mineclearance";

(2) by striking "minesweeping" in Rule 27(b) (33 U.S.C. 2027(b)) and inserting in lieu thereof "mineclearance"; and

(3) by striking paragraph (f) of Rule 27 (33 U.S.C. 2027(f)) and inserting in lieu thereof the following:

"(f) A vessel engaged in mineclearance operations shall, in addition to the lights prescribed for a power-driven vessel in Rule 23 or to the lights or shape prescribed for a vessel at anchor in Rule 30, as appropriate, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach within 1,000 meters of the mineclearance vessel.". Safety. 102 STAT. 1845

SEC. 15. DEFENSE OF CERTAIN SUITS ARISING OUT OF LEGAL MALPRACTICE.

(a) IN GENERAL.—Section 1054 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "or within the Coast Guard" after "title 32)"; and

(2) in subsection (g), by striking "or the Secretary of a military department" and inserting in lieu thereof ", the Secretary of a military department, or the Secretary of the department in which the Coast Guard is operating, as appropriate".

10 USC 1054 note.

(b) AFFECTED CLAIMS.—The amendments made by subsection (a) shall apply only to claims accruing on or after the date of the enactment of this Act, regardless of when the alleged negligent act or omission occurred.

33 USC 59x.

SEC. 16. EXEMPTION FROM GENERAL BRIDGE ACT OF 1946.

(a) WATERS DECLARED NONNAVIGABLE.—The waters described in subsection (b) are declared to be nonnavigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

New Jersey

(b) WATERS DESCRIBED.—The waters referred to in subsection (a) are a drainage canal which—

(1) is an unnamed tributary of the creek known as Newton Creek, located at block 641 (formerly designated as block 860) in the city of Camden, New Jersey;

(2) originates at the north bank of Newton Creek approximately 1,200 feet east of the confluence of Newton Creek and the Delaware River; and

(3) terminates at drainage culverts on the west side of Interstate Highway 676.

SEC. 17. CLARIFYING AMENDMENT TO TITLE 14.

Section 2 of title 14, United States Code, is amended by striking "on and under" the first place it appears and inserting in lieu thereof "on, under, and over".

SEC. 18. BRIDGES DEEMED UNREASONABLE OBSTRUCTIONS TO NAVIGATION.

Notwithstanding any other provision of law, each of the following bridges is deemed to be an unreasonable obstruction to navigation:

Missouri.

(1) EAST HANNIBAL, ILLINOIS.—The Mississippi River Railroad Bridge between East Hannibal, Illinois, and Hannibal, Missouri, mile 309.9, Upper Mississippi River.

(2) PASCAGOULA, MISSISSIPPI.—The CSX (L&N) Railroad Bridge in Pascagoula, Mississippi.

SEC. 19. REPORT ON POSSIBLE PROCUREMENT FOR ANTISUBMARINE WARFARE MISSION.

Not later than October 1, 1988, the Secretary of the department in which the Coast Guard is operating shall submit to the Congress a report on the plans to accomplish the Coast Guard's antisubmarine warfare (ASW) mission responsibilities in the Maritime Defense Zone after considering all available options, including those fully developed by the Navy, on how ASW equipment will be installed and used on Coast Guard cutters.

102 STAT. 1846

SEC. 20. CLARIFICATION OF MEMBERSHIP OF NATIONAL BOATING SAFETY ADVISORY COUNCIL.

(a) IN GENERAL.—Paragraph (1) of section 13110(b) of title 46, United States Code, is amended by striking "members from" each place it appears and inserting in lieu thereof "representatives of".

46 USC 13110 note.

(b) IMPLEMENTATION.—The Secretary of the department in which the Coast Guard is operating shall carry out the amendments made by subsection (a) as vacancies in the membership of the National Boating Safety Advisory Council occur.

determines to be in the public interest. The Secretary shall reimburse the amounts collected under this section to the Coast Guard appropriation account under which the costs were incurred.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 658 the following:

"659. Assistance to film producers.".

SEC. 30. USE OF COAST GUARD AUXILIARY FOR NONEMERGENCY ASSISTANCE.

(a) IN GENERAL.—Section 88(b) of title 14, United States Code, is amended—

(1) by striking "The Coast Guard" and inserting in lieu
102 STAT. 1850 thereof "(1) Subject to paragraph (2), the Coast Guard"; and

(2) by adding at the end the following:

"(2) The Commandant shall make full use of all available and qualified resources, including the Coast Guard Auxiliary and individuals licensed by the Secretary pursuant to section 8904(b) of title 46, United States Code, is rendering aid under this subsection in nonemergency cases.".

(b) CONFORMING AMENDMENT.—Section 113 of the Coast Guard Authorization Act of 1982 (14 U.S.C. 88 note) is amended by inserting "(other than by the Coast Guard Auxiliary)" after "interference".

Approved September 28, 1988.

LEGISLATIVE HISTORY—H.R. 2342 (S. 1459):

HOUSE REPORTS: No. 100-154 (Comm. on Merchant Marine and Fisheries) and No. 100-855 (Comm. of Conference).
SENATE REPORTS: No. 100-98 accompanying S. 1459 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 133 (1987): July 8, considered and passed House.
Oct. 13, considered and passed Senate, amended, in lieu of S. 1459.
Dec. 18, House concurred in Senate amendment with an amendment.
Vol. 134 (1988): Sept. 14, House agreed to conference report.
Sept. 15, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Sept. 28, Presidential statement.

102 STAT. 2441

Public Law 100-494
100th Congress

An Act

Oct. 14, 1988
[S. 1518]

To amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Alternative Motor Fuels Act of 1988.
Chemicals.
Energy.
42 USC 6201 note.
42 USC 6374 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alternative Motor Fuels Act of 1988".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) the achievement of long-term energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

initial cost of such vehicle exceeds the initial cost of a comparable gasoline or diesel fueled vehicle by at least 5 percent.

"(3) The Secretary shall, to the extent practicable and consistent with this part, ensure that the number of dual energy vehicles acquired under this subsection is at least as great as the number of alcohol powered vehicles acquired under this subsection, and that the number of natural gas dual energy vehicles acquired under this subsection is at least as great as the number of natural gas powered vehicles acquired under this subsection. To the extent practicable, both vehicles capable of operating on alcohol and vehicles capable of operating on natural gas shall be acquired in carrying out this subsection, and such vehicles shall be supplied by original equipment manufacturers.

"(b) STUDIES.—(1)(A) The Secretary, in cooperation with the Environmental Protection Agency and the National Highway Traffic Safety Administration, shall conduct a study of the vehicles acquired under subsection (a), which shall at a minimum address—

"(i) the performance of such vehicles, including performance in cold weather and at high altitude;

"(ii) the fuel economy, safety, and emissions of such vehicles; and

102 STAT. 2443

"(iii) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of other passenger automobiles and light duty trucks.

Reports.

"(B) The Secretary shall provide a report on the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, within one year after the first such vehicles are acquired, and annually thereafter.

"(2)(A) The Secretary and the Administrator of the General Services Administration shall conduct a study of the advisability, feasibility, and timing of the disposal of vehicles acquired under subsection (a) and any problems of such disposal. Such study shall take into account existing laws governing the sale of Government vehicles and shall specifically focus on when to sell such vehicles and what price to charge, without compromising studies of the use of such vehicles authorized under this part.

Reports.

"(B) The Secretary and the Administrator of the General Services Administration shall report the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, within 12 months after funds are appropriated for carrying out this section.

"(c) AVAILABILITY TO THE PUBLIC.—To the extent practicable, at locations where vehicles acquired under subsection (a) are supplied with alcohol or natural gas, alcohol or natural gas shall be offered for sale to the public. The head of the Federal agency responsible for such a location shall consider whether such sale is practicable, taking into account, among other factors—

"(1) whether alcohol or natural gas is commercially available for vehicles in the vicinity of such location;

Safety.

"(2) security and safety considerations;

"(3) whether such sale is in accordance with applicable local, State, and Federal law;

"(4) the ease with which the public can access such location; and

"(5) the cost to the United States of such sale.

"(d) FEDERAL AGENCY USE OF DEMONSTRATION VEHICLES.—(1) Upon the request of the head of any agency of the Federal Government, the Secretary shall ensure that such Federal agency be provided with vehicles acquired under subsection (a) to the maximum extent practicable.

"(2)(A) Funds appropriated under this section for the acquisition of vehicles under subsection (a) shall be applicable only to the

portion of the cost of vehicles acquired under subsection (a) which exceeds the cost of comparable gasoline or diesel fueled vehicles.

"(B) The Secretary shall ensure that the cost to any Federal agency receiving a vehicle under paragraph (1) shall not exceed the cost to such agency of a comparable gasoline or diesel fueled vehicle.

"(3) Only one-half of the vehicles acquired under this section by an agency of the Federal Government shall be counted against any limitation under law, Executive order, or executive or agency policy on the number of vehicles which may be acquired by such agency.

"(4) Any Federal agency receiving a vehicle under paragraph (1) shall cooperate with studies undertaken by the Secretary under subsection (b).

"(e) DETAIL OF PERSONNEL.—Upon the request of the Secretary, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Department of Energy to assist the Secretary in carrying out the Secretary's duties under this section.

"(f) EXEMPTIONS.—(1) Vehicles acquired under this section shall not be counted in any calculation of the average fuel economy of the fleet of passenger automobiles acquired in a fiscal year by the United States.

"(2) The incremental cost of vehicles acquired under this section over the cost of comparable gasoline or diesel fueled vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be acquired by the United States.

"(g) DEFINITIONS.—For purposes of this part—

"(1) the term 'acquired' means leased for a period of sixty continuous days or more, or purchased;

"(2) the term 'alcohol' means a mixture containing 85 percent or more by volume methanol, ethanol, or other alcohols, in any combination;

"(3) the term 'alcohol powered vehicle' means a vehicle designed to operate exclusively on alcohol;

"(4) the term 'dual energy vehicle' means a vehicle which is capable of operating on alcohol and on gasoline or diesel fuel;

"(5) the term 'natural gas dual energy vehicle' means a vehicle which is capable of operating on natural gas and on gasoline or diesel fuel; and

"(6) the term 'natural gas powered vehicle' means a vehicle designed to operate exclusively on natural gas.

"(i) FUNDING.—(1) For the purposes of this section, there are authorized to be appropriated for the fiscal year ending September 30, 1990, $5,000,000, for the fiscal year ending September 30, 1991, $3,000,000, for the fiscal year ending September 30, 1992, $2,000,000, and for the fiscal year ending September 30, 1993, $2,000,000.

"(2) The authority of the Secretary to obligate amounts to be expended under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

"SEC. 400BB. ALTERNATIVE FUELS TRUCK COMMERCIAL APPLICATION PROGRAM.

42 USC 6374a.

"(a) ESTABLISHMENT.—The Secretary, in cooperation with manufacturers of heavy duty engines and with other Federal agencies, shall establish a commercial application program to study the use of alcohol and natural gas in heavy duty trucks and, if appropriate, other heavy duty applications.

"(b) FUNDING.—(1) There are authorized to be appropriated for the period encompassing the fiscal years ending September 30, 1990, September 30, 1991, and September 30, 1992, a total of $2,000,000 for alcohol powered vehicles and dual energy vehicles, and a total of $2,000,000 for natural gas powered vehicles and natural gas dual energy vehicles, to carry out the purposes of this section.

"(2) The authority of the Secretary to obligate amounts to be expended under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

102 STAT. 2445

42 USC 6374b.

"SEC. 400CC. ALTERNATIVE FUELS BUS PROGRAM.

State and local governments. Safety Urban areas.

"(a) TESTING.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency and the Administrator of the National Highway Traffic Safety Administration, shall, beginning in the fiscal year ending September 30, 1990, assist State and local government agencies in the testing in urban settings of buses capable of operating on alcohol and buses capable of operating on natural gas for the emissions levels, durability, safety, and fuel economy of such buses, comparing the different types with each other and with diesel powered buses, as such buses will be required to operate under Federal safety and environmental standards applicable to such buses for the model year 1991. To the extent practicable, testing assisted under this section shall apply to both buses capable of operating on alcohol and buses capable of operating on natural gas.

"(b) FUNDING.—There are authorized to be appropriated for the period encompassing the fiscal years ending September 30, 1990, September 30, 1991, and September 30, 1992, a total of $2,000,000 to carry out the purposes of this section.

"(c) DEFINITION.—For purposes of this section, the term 'bus' means a vehicle which is designed to transport 30 individuals or more.

42 USC 6374c.

"SEC. 400DD. INTERAGENCY COMMISSION ON ALTERNATIVE MOTOR FUELS.

"(a) ESTABLISHMENT.—There is established a Commission to be known as the Interagency Commission on Alternative Motor Fuels.

"(b) MEMBERSHIP.—The Commission shall be composed of members as follows:

"(1) the Secretary of Energy, or the designee of the Secretary, who shall be the chairperson of the Commission;

"(2) the Secretary of Defense or the designee of such Secretary;

"(3) the Administrator of the Environmental Protection Agency or the designee of such Administrator;

"(4) the Secretary of Transportation or the designee of such Secretary;

"(5) the Postmaster General or the designee of the Postmaster General;

"(6) the Administrator of the General Services Administration or the designee of such Administrator;

"(7) the Administrator of the Occupational Safety and Health Administration or the designee of such Administrator; and

"(8) such other officers and employees of the Federal Government as may be appointed to the Commission by the President.

"(c) OPERATIONS.—(1) The Commission shall meet regularly as necessary to carry out the purposes of this section. Meetings shall be at the call of the chairperson of the Commission. The Commission shall meet to consider any report of the Commission before such report is submitted to the Congress.

Reports.

"(2) The Secretary shall provide the Commission with such staff and office facilities as the Secretary, following consultation with the Commission, considers necessary to permit the Commission to carry out its functions under this section.

"(3) Subject to applicable law, all expenses of the Commission shall be paid from funds available to the Secretary, except that salaries of Commission members shall be paid by their home agencies.

102 STAT. 2446

"(d) FUNCTIONS.—(1) The Commission shall coordinate Federal agency efforts to develop and implement a national alternative motor fuels policy.

SEC. 21. DRAWBRIDGE OPENINGS.

Section 5(a) of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 18, 1894 (33 U.S.C. 499), is amended by adding at the end the following: "Any rules and regulations made in pursuance of this section shall, to the extent practical and feasible, provide for regularly scheduled openings of drawbridges during seasons of the year, and during times of the day, when scheduled openings would help reduce motor vehicle traffic delays and congestion on roads and highways linked by drawbridges.". Highways.

SEC. 22. MOBILE LAW ENFORCEMENT BASE.

The Secretary of the department in which the Coast Guard is operating shall evaluate the advantages and disadvantages of acquisition by the Coast Guard of a mobile semisubmersible law enforcement base. Not later than 3 months after the date of the enactment of this Act, the Secretary shall report the results of such evaluation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives. Reports.

SEC. 23. ICEBREAKER STUDY.

President of U.S. Defense and national security.

The President shall review existing national needs for polar icebreakers with respect to all appropriate national security, scientific, economic, and environmental interests of the United States. Not later than October 1, 1988, the President shall submit a report on such review to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives. Such report may be in the form of an update of the Polar Icebreaker Requirements Study of 1984 and shall include— Reports.

(1) an assessment of the number and capabilities of polar icebreaking vessels required in the national interest with respect to national security, scientific, economic, and environmental requirements;

(2) a comparison of the advantages and disadvantages of acquiring polar icebreaking vessels built in whole or in part in foreign shipyards as opposed to acquiring polar icebreaking vessels built in whole or in part in domestic shipyards, including any national security risks and economic costs and benefits;

(3) a comparison of the operational and economic costs and benefits that can be derived from leasing polar icebreaking vessels as opposed to the costs and benefits that can be derived from buying such icebreakers; and

(4) recommendations for such funding and legislation as may be necessary to obtain such polar icebreaking vessels as are needed to meet national requirements.

102 STAT. 1847

SEC. 24. TWO-YEAR BUDGET CYCLE FOR COAST GUARD.

31 USC 1105 note.

(a) OPINION OF CONGRESS.—It is the opinion of the Congress that the programs and activities of the Coast Guard could be more effectively and efficiently planned and managed if funds for the Coast Guard were provided on a 2-year cycle rather than annually.

(b) SUBMISSION OF 2-YEAR BUDGET BY PRESIDENT.—The President shall include in the budget for fiscal year 1990 submitted to the Congress pursuant to section 1105 of title 31, United States Code, a single proposed budget for the Coast Guard for fiscal years 1990 and 1991. Thereafter, the President shall submit a proposed 2-year budget for the Coast Guard every other year.

(c) REPORT.—Not later than October 1, 1988, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives a report containing—

(1) the Secretary's views on the advantages and disadvantages of operating the Coast Guard on a 2-year budget cycle;

(2) the Secretary's plans for converting to a 2-year budget cycle; and

(3) a description of any impediments (statutory or otherwise) to converting the operations of the Coast Guard to a 2-year budget cycle beginning with fiscal year 1990.

SEC. 25. COAST GUARD BUDGET ESTIMATES.

Section 663 of title 14, United States Code, is amended by adding at the end the following new sentence: "Not later than 30 days after the date on which the President submits to the Congress a budget under section 1105 of title 31 which includes a proposed 2-year budget for the Coast Guard, the Secretary shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives, detailed Coast Guard budget estimates for the fiscal years covered by such proposed 2-year budget.".

SEC. 26. CONSTRUCTION OF CERTAIN VESSELS.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"§ 665. Restriction on construction of vessels in foreign shipyards

"(a) Except as provided in subsection (b), no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed in a foreign shipyard.

"(b) The President may authorize exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.".

President of U.S. Contracts. Effective date.

102 STAT. 1848

(b) CONFORMING AMENDMENT.—The analysis of chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"665. Restriction on construction of vessels in foreign shipyards.".

SEC. 27. HELICOPTER PRESENCE IN CHARLESTON, SOUTH CAROLINA.

(a) ESTABLISHMENT OF HELICOPTER PRESENCE.—Not later than three months after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall have initiated action to establish a full-time permanent base at Charleston, South Carolina, for the operation of at least one HH-65 short-range recovery helicopter, together with necessary support and operational personnel. The establishment of this base shall be completed in 24 months. The Secretary shall ensure that establishing and maintaining this base shall not result in a relocation of helicopters assigned to a Coast Guard air station as of July 13, 1988.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to the funds authorized to be appropriated under section 2 of this Act, $10,000,000 is authorized to be appropriated for fiscal year 1989 to establish and operate the Charleston, South Carolina, helicopter presence.

SEC. 28. GRANT OF RIGHT OF FIRST REFUSAL TO GRAND HAVEN, MICHIGAN, TO CERTAIN PROPERTY USED BY THE COAST GUARD.

(a) RIGHT OF FIRST REFUSAL.—The Secretary of the department in which the Coast Guard is operating shall transfer without consideration to the city of Grand Haven, Michigan, the right that, if the Coast Guard ceases to use the property described in subsection (c)(1) as a Coast Guard facility or such property is determined to be excess, the city of Grand Haven shall have the first opportunity to purchase the property described in subsection (c)(1).

(b) PURCHASE PRICE OF PROPERTY.—The right referred to in subsection (a) shall provide that the property may be purchased by the city of Grand Haven, Michigan, for fair market value less—

(1) ⅔ of the difference between—

(A) the appraised value of the property described in subsection (c)(1) after improvements are made but before occupancy by the Coast Guard, and

(B) the appraised value of the property described in subsection (c)(1), determined as of the date such property was first acquired by the United States for use by the Coast Guard but before the Coast Guard takes occupancy; less

(2) the difference between—

(A) the appraised value of the property described in subsection (c)(1), determined as of the date the property was first acquired for the use of the Coast Guard, and

(B) the appraised value of the property described in subsection (c)(2), determined as of the date the property was transferred by the United States to the city of Grand Haven, Michigan.

(c) DESCRIPTION OF PROPERTY.—

(1) PROPERTY USED AS COAST GUARD FACILITY.—The property referred to in subsections (a), (b)(1) (A) and (B), and (b)(2)(A) is that property known as the old Board of Light and Power office and service operations facility, located at 650 Harbor Avenue, Grand Haven, Michigan. 102 STAT. 1849

(2) OTHER PROPERTY.—The property referred to in subsection (b)(2)(B) is that property in the city of Grand Haven, Michigan, more particularly described as: That part of Government Lot 3 in section 19, town 8 north, range 16 West, described as beginning at a point called "A" located as follows: Commence on the east line of said section 19, 2,290.35 feet south of the east quarter corner of said section, thence west 663.04 feet, thence south 2 degrees west 197.00 feet to a point of beginning "A", thence south 63 degrees 45 minutes west 200.00 feet, thence south 26 degrees 15 minutes east 200.00 feet to the north pier on the Grand River, thence north 63 degrees 45 minutes east 250.00 feet along such pier line, thence north 23 degrees 20 minutes west to a point 61.05 feet north 63 degrees 45 minutes east of point "A", thence south 63 degrees 45 minutes west to the point of beginning, called "A", also known and sometimes described as Tax Parcel No. 70-03-19-42-015, being located in the southeast quarter of said section 19, town 8 north, range 16 west, bounded on the southerly boundary thereof by the waters of the Grand River, and bounded on the northerly edge thereof by "Main Street" in the city of Grand Haven.

SEC. 29. ASSISTANCE TO FILM PRODUCERS.

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 658 the following:

"§ 659. Assistance to film producers

"(a) Notwithstanding any other provision of law, when the Secretary determines that it is appropriate, and that it will not interfere with Coast Guard missions, the Secretary may conduct operations with Coast Guard vessels, aircraft, facilities, or personnel, in such a way as to give assistance to film producers. As used in this section, 'film producers' includes commercial or noncommercial producers of material for cinema, television, or videotape.

"(b) The Secretary shall keep account of costs incurred as a result of providing assistance to film producers, not including costs which would otherwise be incurred in Coast Guard operations or training, or shall estimate such costs in advance, and such costs shall be paid to the Secretary by the film producers who request such assistance, on terms determined by the Secretary. The Secretary may waive costs not exceeding $200 for one production, and may waive other costs related to noncommercial productions which the Secretary

(2) the displacement of energy derived from imported oil with alternative fuels will help to achieve energy security and improve air quality;

(3) transportation uses account for more than 60 percent of the oil consumption of the Nation;

(4) the Nation's security, economic, and environmental interests require that the Federal Government should assist clean-burning, nonpetroleum transportation fuels to reach a threshold level of commercial application and consumer acceptability at which they can successfully compete with petroleum-based fuels;

(5) methanol, ethanol, and natural gas are proven transportation fuels that burn more cleanly and efficiently than gasoline and diesel fuel;

(6) the production and use as transportation fuels of ethanol, methanol made from natural gas or biomass, and compressed natural gas have been estimated in some studies to release less carbon dioxide than comparable quantities of petroleum-based fuel;

(7) the amount of carbon dioxide released with methanol from a coal-to-methanol industry using currently available technologies has been estimated in some studies to be significantly greater than the amount released with a comparable quantity of petroleum-based fuel;

(8) there exists evidence that manmade pollution—the release of carbon dioxide, chlorofluorocarbons, methane, and other trace gases into the atmosphere—may be producing a long term and substantial increase in the average temperature on Earth, a phenomenon known as global warming through the greenhouse effect; and

(9) ongoing pollution and deforestation may be contributing now to an irreversible process producing unacceptable global climate changes; necessary actions must be identified and implemented in time to protect the climate, including the development of technologies to control increased carbon dioxide emissions that result with methanol from a coal-to-methanol industry.

SEC. 3. PURPOSE.

42 USC 6374 note.

The purpose of this Act is to encourage—

(1) the development and widespread use of methanol, ethanol, and natural gas as transportation fuels by consumers; and

(2) the production of methanol, ethanol, and natural gas powered motor vehicles.

SEC. 4. AMENDMENT OF ENERGY POLICY AND CONSERVATION ACT.

(a) AMENDMENT.—Title III of the Energy Policy and Conservation Act is amended by adding at the end the following new part:

"PART J—ENCOURAGING THE USE OF ALTERNATIVE FUELS

"SEC. 400AA. ALTERNATIVE FUEL USE BY LIGHT DUTY FEDERAL VEHICLES.

42 USC 6374.

"(a) DEPARTMENT OF ENERGY PROGRAM.—(1) Beginning in the fiscal year ending September 30, 1990, the Secretary shall ensure, with the cooperation of other appropriate agencies and consistent with other Federal law, that the maximum number practicable of the passenger automobiles and light duty trucks acquired annually for use by the Federal Government shall be alcohol powered vehicles, dual energy vehicles, natural gas powered vehicles, or natural gas dual energy vehicles.

"(2) In any determination of whether the acquisition of a vehicle is practicable under paragraph (1), the initial cost of such vehicle to the United States shall not be considered as a factor unless the

"(2) The Commission shall ensure the development of a long-term plan for the commercialization of alcohols, natural gas, and other potential alternative motor fuels.

"(3) The Commission shall ensure communication among representatives of all Federal agencies that are involved in alternative motor fuels projects or that have an interest in such projects.

"(4) The Commission shall provide for the exchange of information among persons working with, or interested in working with, the commercialization of alternative motor fuels.

"(e) UNITED STATES ALTERNATIVE FUELS COUNCIL.—(1) The chairperson of the Commission shall, consistent with the Federal Advisory Committee Act, establish a United States Alternative Fuels Council to report to the Commission about matters related to alternative motor fuels.

"(2) The Council shall be composed of members as follows:

"(A) one Member of the House of Representatives appointed by the Speaker of the House of Representatives;

"(B) one Member of the House of Representatives appointed by the Minority Leader of the House of Representatives;

"(C) one Member of the Senate appointed by the Majority Leader of the Senate;

"(D) one Member of the Senate appointed by the Minority Leader of the Senate; and

"(E) 16 persons from the private sector or from State or local government who are knowledgeable about alternative motor fuels and their possible uses and the production of alternative motor fuels and vehicles powered by such fuels, to be appointed by the chairperson of the Commission.

"(3) The Council shall meet at the call of the chairperson of the Commission.

"(f) DETAIL OF FEDERAL PERSONNEL.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.

"(g) REPORTS.—(1) The Commission shall, not later than September 30 of each of the years 1990 and 1991, submit an interim report to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, setting forth the actions taken by the Commission under this section.

"(2) The Commission shall, not later than September 30, 1992, submit a final report to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, setting forth the actions taken by the Commission under this section.

"(h) TERMINATION.—The Commission and the Council shall terminate upon submission of the final report of the Commission under subsection (g)(2).

"(i) DEFINITIONS.—For purposes of this section— 102 STAT. 2447

"(1) the term 'Commission' means the Interagency Commission on Alternative Motor Fuels established in subsection (a); and

"(2) the term 'Council' means the United States Alternative Fuels Council established under subsection (e)(1).

"SEC. 400EE. STUDIES AND REPORTS. 42 USC 6374d.

"(a) METHANOL STUDY.—(1) The Secretary shall study methanol plants, including the costs and practicability of such plants, that are—

"(A) capable of utilizing current domestic supplies of unutilized natural gas;

"(B) relocatable; or

"(C) suitable for natural gas to methanol conversion by natural gas distribution companies.

"(2) For purposes of this subsection, the term 'unutilized natural gas' means gas that is available in small remote fields and cannot be economically transported to natural gas pipelines, or gas the quality of which is so poor that extensive and uneconomic pretreatment is required prior to its introduction into the natural gas distribution system.

"(3) The Secretary shall submit a report under this subsection to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, no later than September 30, 1990.

"(b) INDEPENDENT ENVIRONMENTAL STUDY.—(1) The Administrator of the Environmental Protection Agency shall submit to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, in December of 1990, and once every two years thereafter, a report which includes—

"(A) a comprehensive analysis of the air quality, global climate change, and other positive and negative environmental impacts, if any, including fuel displacement effects, associated with the production, storage, distribution, and use of all alternative motor vehicle fuels under the Alternative Motor Fuels Act of 1988, as compared to gasoline and diesel fuels; and

"(B) an extended reasonable forecast of the change, if any, in air quality, global climate change, and other environmental effects of producing, storing, distributing, and using alternative motor vehicle fuels, utilizing such reasonable energy security, policy, economic, and other scenarios as may be appropriate.

"(2) In carrying out the study under this subsection, the Administrator of the Environmental Protection Agency shall consult with the Secretaries of Energy and Transportation. Nothing in this paragraph shall be construed to require such Administrator to obtain the approval of the Secretary of Energy or the Secretary of Transportation for any actions taken under this subsection.

Appropriation authorization.

"(3) There are authorized to be appropriated to carry out the purposes of this subsection $500,000.

"(c) PUBLIC PARTICIPATION.—Adequate opportunity shall be provided for public comment on the reports required by this section before they are submitted to the Congress, and a summary of such comments shall be attached to such reports.".

102 STAT. 2448

42 USC 6374 note.

(b) CESSATION OF EFFECT.—This section, and the amendments made by this section, shall cease to be effective after September 30, 1997.

42 USC 6374 note.

SEC. 5. USE OF NONSTANDARD FUELS.

No guaranty or warranty with respect to any passenger automobile or light-duty truck acquired by the United States after October 1, 1989, shall be voided or reduced in effect by reason of the operation of such vehicle with any fuel for which a currently effective waiver, which includes a limitation regarding Reid vapor pressure with respect to such fuel, has been issued by the Administrator of the Environmental Protection Agency under section 211(f) of the Clean Air Act (42 U.S.C. 7545(f)).

SEC. 6. AMENDMENT OF THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT.

(a) FUEL ECONOMY OF ALTERNATIVE FUEL AUTOMOBILES.—Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) is amended by adding at the end the following new section:

"MANUFACTURING INCENTIVES FOR AUTOMOBILES

15 USC 2013.

"SEC. 513. (a) ALCOHOL POWERED AUTOMOBILE.—If a manufacturer manufactures any model type of alcohol powered automobile, the fuel economy measured for that model type shall be based on the

fuel content of the alcohol used to operate such automobile. For purposes of this section, a gallon of alcohol used to operate such automobile shall be considered to contain 15 one-hundredths of a gallon of fuel.

"(b) DUAL ENERGY AUTOMOBILE.—If a manufacturer manufactures any model type of dual energy automobile, the fuel economy measured for that model type shall be measured by the EPA Administrator by dividing 1.0 by the sum of—

"(1) 0.5 divided by the fuel economy as measured under section 503(d) while operating such model type on gasoline or diesel fuel; and

"(2) 0.5 divided by the fuel economy as measured under subsection (a) of this section while operating such model type on alcohol.

"(c) NATURAL GAS POWERED AUTOMOBILE.—If a manufacturer manufactures any model type of natural gas powered automobile, the fuel economy measured for that model type shall be based on the fuel content of the natural gas used to operate such automobile. For purposes of this section, 100 cubic feet of natural gas shall be considered to contain 0.823 gallons equivalent of natural gas, and a gallon equivalent of natural gas shall be considered to have a fuel content of 15 one-hundredths of a gallon of fuel.

"(d) NATURAL GAS DUAL ENERGY AUTOMOBILE.—If a manufacturer manufactures any model type of natural gas dual energy automobile, the fuel economy measured for that model type shall be measured by the EPA Administrator by dividing 1.0 by the sum of—

"(1) 0.5 divided by the fuel economy as measured under section 503(d) while operating such model type on gasoline or diesel fuel; and

"(2) 0.5 divided by the fuel economy as measured under subsection (c) of this section while operating such model type on natural gas.

102 STAT. 2449

"(e) FUEL ECONOMY CALCULATION.—The EPA Administrator shall calculate, subject to the provisions of this section, the manufacturer's average fuel economy under section 503(a) (1) and (2) by including as the denominator of the term for each model type of alcohol powered automobile, dual energy automobile, natural gas powered automobile, or natural gas dual energy automobile, the fuel economy measured pursuant to subsections (a) through (d) of this section.

"(f) APPLICABILITY.—

"(1) Except as otherwise provided in this subsection, subsections (b) and (d) shall apply only to automobiles manufactured in model year 1993 through model year 2004. Subsections (a) and (c) shall apply only to automobiles manufactured after model year 1992.

"(2)(A) Not later than September 30, 2000, the Secretary, in consultation with the Secretary of Energy and the EPA Administrator, shall complete and submit to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, a report containing the results of a study of the success of the policy contained in subsections (b) and (d), along with preliminary conclusions as to whether the application of such subsections should be extended for up to four additional model years. Such study and conclusions shall be prepared taking into consideration— Reports.

"(i) the availability to the public of alcohol powered automobiles, natural gas powered automobiles, and alternative fuels;

"(ii) energy conservation and security;

"(iii) environmental considerations; and

"(iv) other relevant factors.

"(B) The Secretary shall—

"(i) promulgate a rule to extend the applicability of subsections (b) and (d) for 4 or fewer consecutive model years immediately after model year 2004; or

"(ii) publish a notice explaining the reasons for not promulgating such rule. Such rule or notice shall be promulgated before January 1, 2002.

Any such promulgated rule shall explain the basis on which any such extension has been granted.

"(g) MAXIMUM INCREASE.—

"(1)(A) For each of the model years 1993 through 2004, for each category of automobiles the maximum increase in average fuel economy for a manufacturer attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.2 miles per gallon.

"(B) If the application of subsections (b) and (d) is extended under subsection (f)(2), for each category of automobiles the maximum increase in average fuel economy for a manufacturer for each of the model years 2005 through 2008 attributable to dual energy automobiles and natural gas dual energy automobiles shall be 0.9 miles per gallon.

"(C) For purposes of applying subparagraph (A) or (B), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a) (1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in subparagraph (A) is more than 1.2 miles per gallon, the limitation in subparagraph (A) shall apply, and if the increase attributable to such automobiles for any model year described in subparagraph (B) is more than 0.9 miles per gallon, the limitation in subparagraph (B) shall apply.

102 STAT. 2450

"(2)(A) Notwithstanding any other provision of this section, if the Secretary reduces the average fuel economy standard applicable to passenger automobiles for any model year below 27.5 miles per gallon, any increase in average fuel economy for passenger automobiles of more than 0.7 miles per gallon to which a manufacturer of dual energy passenger automobiles or natural gas dual energy passenger automobiles would otherwise be entitled in that year under this section shall be reduced by an amount equal to the amount of such reduction in the standard, except that such increase shall not be reduced to less than 0.7 miles per gallon.

"(B) In carrying out section 502 (a)(4) and (f), the Secretary shall not consider the fuel economy of alcohol powered automobiles or natural gas powered automobiles, and the Secretary shall consider dual energy automobiles and natural gas dual energy automobiles to be operated exclusively on gasoline or diesel fuel.

"(h) DEFINITIONS.—(1) For purposes of this title—

"(A) the term 'alcohol' means a mixture containing 85 percent or more by volume methanol, ethanol, or other alcohols, in any combination;

"(B) the term 'alcohol powered automobile' means an automobile designed to operate exclusively on alcohol;

"(C) the term 'dual energy automobile' means an automobile—

"(i) which is capable of operating on alcohol and on gasoline or diesel fuel;

"(ii) which provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Federal Government, while operat-

Public Law 100-253
100th Congress

102 STAT. 20

An Act

To amend title 38, United States Code, to authorize reductions under certain circumstances in the downpayments required for loans made by the Veterans' Administration to finance the sales of properties acquired by the Veterans' Administration as the result of foreclosures and to clarify the calculation of available guaranty entitlement and make other technical and conforming amendments.

Feb. 29, 1988
[S. 2022]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Home Loan Program Emergency Amendments of 1988.
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Home Loan Program Emergency Amendments of 1988".

SEC. 2. DOWNPAYMENT REQUIREMENTS FOR VENDEE LOANS.

Section 1816(d)(4)(B) of title 38, United States Code (as amended by section 6(b)(1) of Public Law 100-198), is amended—

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end the following new division:

"(ii) A loan described in subparagraph (A) of this paragraph may, to the extent the Administrator determines to be necessary in order to market competitively the property involved, exceed 95 percent of the purchase price.".

SEC. 3. AMOUNT OF GUARANTY ENTITLEMENT.

(a) CONVENTIONAL HOUSING.—Section 1803(a)(1) of title 38, United States Code (as amended by section 3(a)(1) of Public Law 100-198) is amended to read as follows:

"(a)(1)(A) Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes specified in section 1810 of this title and in compliance with the provisions of this chapter, is automatically guaranteed by the United States in an amount not to exceed the lesser of—

"(i)(I) in the case of any loan of not more than $45,000, 50 percent of the loan; or

"(II) in the case of any loan of more than $45,000, the lesser of $36,000 or 40 percent of the loan, except that the amount of such guaranty for any such loan shall not be less than $22,500; or

"(ii) the maximum amount of guaranty entitlement available to the veteran.

"(B) The maximum amount of guaranty entitlement available to a veteran under section 1810 of this chapter shall be $36,000 reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 1802(b) of this title.".

(b) MANUFACTURED HOUSING.—Section 1819(c) of such title (as amended by section 3(b) of Public Law 100-198) is amended—

(1) in paragraph (3), by amending the first sentence to read as follows: "The Administrator's guaranty may not exceed the lesser of (A) the lesser of $20,000 or 40 percent of the loan, or (B) the maximum amount of guaranty entitlement available to the veteran.";

ing on alcohol as it does while operating on gasoline or diesel fuel;

"(iii) which, for model years 1993 through 1995, and, if the Administrator of the Environmental Protection Agency determines that an extension of this clause is warranted, for an additional period ending not later than the end of the last model year for which section 513 (b) and (d) applies, provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Federal Government, while operating on a mixture of alcohol and gasoline or diesel fuel containing exactly 50 percent gasoline or diesel fuel as it does while operating on gasoline or diesel fuel; and

"(iv) which, in the case of passenger automobiles, meets or exceeds the minimum driving range established pursuant to paragraph (2);

"(D) the term 'natural gas dual energy automobile' means an automobile—

"(i) which is capable of operating on natural gas and on gasoline or diesel fuel;

"(ii) which provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Federal Government, while operating on natural gas as it does while operating on gasoline or diesel fuel; and

"(iii) which, in the case of passenger automobiles, meets or exceeds the minimum driving range established pursuant to paragraph (2); and

"(E) the term 'natural gas powered automobile' means an automobile designed to operate exclusively on natural gas.

"(2)(A) For purposes of the definitions in paragraphs (1) (C) and (D), the Secretary shall, within 18 months after the date of enactment of this section, establish by rule of general applicability for all manufacturers a minimum driving range which must be met by dual energy automobiles when operating on alcohol, and by natural gas dual energy automobiles when operating on natural gas, if such automobiles are to be considered dual energy automobiles or natural gas dual energy automobiles under this section. Subject to the provisions of this paragraph, the rule may be amended from time to time. Any determination of whether dual energy automobiles or natural gas dual energy automobiles meet the minimum driving range requirement under this paragraph shall be based on the combined EPA city/highway fuel economy as determined for average fuel economy purposes for such automobiles. The rule issued under this subparagraph shall apply only to dual energy automobiles and natural gas dual energy automobiles that are passenger automobiles.

"(B)(i) The general rule established under subparagraph (A) shall allow the Secretary to determine that a specific model type or types may have a lower range than that established by the general rule, and shall allow a manufacturer to petition for a specific model type or types to have a lower range than that established by the general rule.

"(ii) If, with respect to dual energy automobiles, the Secretary establishes under subparagraph (A) 200 miles as the generally applicable minimum driving range under this paragraph, clause (i) shall not apply to dual energy automobiles.

"(C) Under no circumstances shall the general rule established under subparagraph (A) establish a minimum driving range of less than 200 miles for dual energy automobiles, nor shall the Secretary approve under the procedure referred to in subparagraph (B) a minimum driving range of less than 200 miles for dual energy automobiles.

"(D) In establishing the general rule under subparagraph (A), and in taking any action under the procedure referred to in subparagraph (B), the Secretary shall take into account the purposes of the Alternative Motor Fuels Act of 1988, consumer acceptability, eco-

nomic practicability, technology, environmental impact, safety, driveability, performance, and any other factors the Secretary
102 STAT. 2452 considers relevant.".

(b) DEFINITION OF AUTOMOBILE.—Section 501(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(1)) is amended by inserting ", or by alcohol or natural gas," after "fuel" the first time it appears.

(c) CONFORMING AMENDMENT.—Section 502(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(e)) is amended by adding at the end the following: "For purposes of this subsection, the Secretary shall not consider the fuel economy of alcohol powered automobiles or natural gas powered automobiles, and the Secretary shall consider dual energy automobiles and natural gas dual energy automobiles to be operated exclusively on gasoline or diesel fuel.".

15 USC 2512 note.

SEC. 7. ELECTRIC VEHICLES.

(a) STUDY.—The Secretary of Transportation, in consultation with the Secretary of Energy, shall conduct a comprehensive study and investigation regarding whether regulations in effect on the date of enactment of this Act should be amended or additional regulations should be promulgated to stimulate the production and introduction of electric vehicles into commerce. The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall include as part of the comprehensive study, information regarding the effect of electric vehicles on air quality. Such study shall also consider the feasibility and desirability of regulations to stimulate the production and introduction of solar powered vehicles into commerce. The Secretary of Transportation shall transmit the results of such study to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, not later than one year after the date of enactment of this Act.

(b) REGULATIONS.—If, as a result of the study conducted under subsection (a), the Secretary of Transportation, the Secretary of Energy, or the Administrator of the Environmental Protection Agency determines that regulations under their respective jurisdictions should be amended, or that additional regulations should be promulgated, such Secretary or Administrator shall, if so authorized, commence a rulemaking proceeding for such purpose.

Public information. Consumer protection.

SEC. 8. AUTOMOBILE LABELING.

(a) AMENDMENTS.—(1) Section 506(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(a)) is amended by adding at the end the following new paragraph:

"(4)(A) In the case of alcohol powered automobiles or natural gas powered automobiles, the fuel economy of such automobiles for purposes of paragraph (1)(A)(i) shall be the fuel economy for such automobiles when operated on alcohol or natural gas, as the case may be, measured under section 513 (a) or (c), multiplied by 0.15.

"(B) In the case of dual energy automobiles or natural gas dual energy automobiles, each label required under paragraph (1) shall—

"(i) indicate the fuel economy of such automobile when operated on gasoline or diesel fuel;

"(ii) clearly identify such automobile as a dual energy automobile or natural gas dual energy automobile, as the case may be;

"(iii) clearly identify the fuels on which such automobile may
102 STAT. 2453 be operated; and

"(iv) contain a statement informing the consumer that the additional information required by subsection (b)(3) is published and distributed by the Department of Energy.".

(2) Section 506(b) of such Act (15 U.S.C. 2006(b)) is amended by adding at the end the following new paragraph:

"(3)(A) In the case of dual energy automobiles and natural gas dual energy automobiles, additional information shall be contained in the booklet published under paragraph (1) indicating—

"(i) the energy efficiency and cost of operation of such automobiles when operated on gasoline or diesel fuel as compared to such automobiles when operated on alcohol or natural gas, as the case may be; and

"(ii) the driving range of such automobiles when operated on gasoline or diesel fuel as compared to such automobiles when operated on alcohol or natural gas, as the case may be.

"(B) In the case of dual energy automobiles, the booklet published under paragraph (1) shall also contain—

"(i) information regarding the miles per gallon achieved by such automobiles when operated on alcohol; and

"(ii) a statement of explanation of how the information made available pursuant to this paragraph can be expected to change when such automobile is operated on mixtures of alcohol and gasoline or diesel fuel.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall not apply with respect to any model year, as such term is defined in section 501(12) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(12)), before model year 1993.

15 USC 2006 note.

SEC. 9. STUDY ON RESIDENTIAL ENERGY PRICING.

Reports. 15 USC 2013 note.

The Secretary of Energy, in consultation with the Secretary of Transportation, shall study and report to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, not later than December 1, 1989, on whether calculating the average fuel economy of vehicles as provided in this Act and the amendments made by this Act is likely to result in a significant increase in the average price of home heating to residential consumers. Such report shall be updated and submitted to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, not later than December 1, 1994.

Approved October 14, 1988.

LEGISLATIVE HISTORY—S. 1518 (*See* H.R. 3399):

HOUSE REPORTS: No. 100-476 accompanying H.R. 3399 (Comm. on Energy and Commerce) and No. 100-929 (Comm. of Conference).
SENATE REPORTS: No. 100-271 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 14, H.R. 3399 considered and passed House.
Vol. 134 (1988): Apr. 15, S. 1518 considered and passed Senate.
June 28, considered and passed House, amended.
Sept. 20, Senate agreed to conference report.
Sept. 23, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Oct. 14, Presidential remarks.

Public Law 100-591
100th Congress

102 STAT. 3011

An Act

To amend the Federal Aviation Act of 1958 relating to aviation research.

Nov. 3, 1988
[H.R. 4686]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Aviation Safety Research Act of 1988.

SECTION 1. SHORT TITLE.

49 USC app. 1301 note.

This Act may be cited as the "Aviation Safety Research Act of 1988".

SEC. 2. AVIATION MAINTENANCE AND FIRE SAFETY RESEARCH.

Section 312(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(b)) is amended by inserting after the first sentence the following: "The Administrator shall undertake or supervise research to develop technologies and to conduct data analyses for predicting the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft and on air safety, to develop methods of analyzing and improving aircraft maintenance technology and practices (including nondestructive evaluation of aircraft structures), to assess the fire and smoke resistance of aircraft materials, to develop improved fire and smoke resistant materials for aircraft interiors, to develop and improve fire and smoke containment systems for in-flight aircraft fires, and to develop advanced aircraft fuels with low flammability and technologies for containment of aircraft fuels for the purpose of minimizing post-crash fire hazards.".

SEC. 3. RESEARCH ON RELATIONSHIP BETWEEN HUMAN FACTORS AND AIR SAFETY AND ON DYNAMIC SIMULATION MODELING.

Section 312(c) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(c)) is amended by inserting after the first sentence the following: "The Administrator shall undertake or supervise research to develop a better understanding of the relationship between human factors and aviation accidents and between human factors and air safety, to enhance air traffic controller and mechanic and flight crew performance, to develop a human-factor analysis of the hazards associated with new technologies to be used by air traffic controllers, mechanics, and flight crews, and to identify innovative and effective corrective measures for human errors which adversely affect air safety. The Administrator shall undertake or supervise a research program to develop dynamic simulation models of the air traffic control system and airport design and operating procedures which will provide analytical technology for predicting airport and air traffic control safety and capacity problems, for evaluating planned research projects, and for testing proposed revisions in airport and air traffic control operations programs."

SEC. 4. RESEARCH PLAN AND REPORTS.

(a) IN GENERAL.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) is amended by adding at the end the following new subsection:

102 STAT. 3012

"RESEARCH PLAN AND REPORTS

"(d)(1) The Administrator shall prepare, review, revise, publish, and transmit a national aviation research plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives not later than the date of the submission to Congress of the President's budget for fiscal year 1990, and for each fiscal year thereafter. The plan shall describe, for a 15-year period, the research, engineering, and development considered by the Administrator necessary to ensure the continued capacity, safety, and efficiency of aviation in the United States, considering emerging technologies and forecasted needs of civil aeronautics, and provide the highest degree of safety in air travel. The plan shall cover all research conducted under this section and section 316 of this Act and shall identify complementary and coordinated research efforts conducted by the National Aeronautics and Space Administration with funds specifically appropriated to such Administration. In addition, for projects for which the Administrator anticipates requesting funding, such plan shall set forth—

"(A) for the first 2 years the plan, detailed annual estimates of the schedule, cost, and manpower levels for each research

project, including a description of the scope and content of each major contract, grant, or interagency agreement;

"(B) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major project for such years and any additional major research projects which may be required to meet long-term objectives and which may have significant impact on future funding requirements;

"(C) for the 6th and subsequent years of the plan, the long-term objectives which the Administrator considers to be necessary to ensure that aviation safety will be given the highest priority; and

"(D) details of a program to disseminate to the private sector the results of aviation research conducted by the Administrator, including any new technologies developed.

"(2) Subject to section 316(d)(2) of this Act and the regulations prescribed to carry out such section, the Administrator shall report annually, beginning with the date of transmission of the first aviation research plan as required by paragraph (1), to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the accomplishments of the research completed during the preceding fiscal year. The report shall be transmitted together with each plan transmittal required under paragraph (1) and shall be organized so as to allow comparison with the plan in effect for such year under this subsection.".

(b) CONFORMING AMENDMENT.—That portion of the table of contents contained in the first section of such Act which appears under the heading:

"Sec. 312. Development planning."

is amended by adding at the end the following:

"(d) Research plan and reports.
"(e) Civil aeromedical research.
"(f) Research advisory committee.".

102 STAT. 3013

SEC. 5. CIVIL AEROMEDICAL RESEARCH.

(a) ESTABLISHMENT OF CIVIL AEROMEDICAL INSTITUTE.—Section 106 of title 49, United States Code, relating to the Federal Aviation Administration, is amended by adding at the end thereof the following new subsection:

"(j) There is established within the Federal Aviation Administration an institute to conduct civil aeromedical research under section 312(e) of the Federal Aviation Act of 1958. Such institute shall be known as the 'Civil Aeromedical Institute'. Research conducted by the institute should take appropriate advantage of capabilities of other government agencies, universities, or the private sector.".

(b) CIVIL AEROMEDICAL RESEARCH.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353), as amended by this Act, is further amended by adding at the end the following new subsection:

"CIVIL AEROMEDICAL RESEARCH

"(e) The Civil Aeromedical Institute established by section 106(j) of title 49, United States Code, is authorized—

"(1) to conduct civil aeromedical research, including, but not limited to, research related to—

"(A) protection and survival of aircraft occupants;

"(B) medical accident investigation and airman medical certification;

"(C) toxicology and the effects of drugs on human performance;

"(D) the impact of disease and disability on human performance;

"(E) vision and its relationship to human performance and equipment design;

"(F) human factors of flight crews, air traffic controllers, mechanics, inspectors, airway facility technicians, and other persons involved in the operation and maintenance of aircraft and air traffic control equipment; and

"(G) agency work force optimization, including training, equipment design, reduction of errors, and identification of candidate tasks for automation;

"(2) to make comments to the Administrator on human factors aspects of proposed air safety rules;

"(3) to make comments to the Administrator on human factors aspects of proposed training programs, equipment requirements, standards, and procedures for aviation personnel;

"(4) to advise, assist, and represent the Federal Aviation Administration in the human factors aspects of joint projects between such Administration and the National Aeronautics and Space Administration, other Government agencies, industry, and foreign governments; and

"(5) to provide medical consultation services to the Administrator with respect to medical certification of airmen.".

SEC. 6. ADVISORY COMMITTEE.

Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353), as amended by this Act, is further amended by adding at the end the following new subsection:

102 STAT. 3014

"RESEARCH ADVISORY COMMITTEE

"(f)(1) Not later than 180 days after the date of the enactment of this subsection, the Administrator shall establish in the Federal Aviation Administration a research advisory committee.

"(2) The advisory committee shall provide advice and recommendations to the Administrator regarding needs, objectives, plans, approaches, content, and accomplishments with respect to the aviation research program carried out under this section and section 316. The committee shall also assist in assuring that such research is coordinated with similar research being conducted outside of the Federal Aviation Administration.

"(3) The advisory committee shall be composed of not more than 20 members appointed by the Administrator from among persons who are not employees of the Federal Aviation Administration and who are specially qualified to serve on the committee by virtue of their education, training, or experience. The Administrator in appointing the members of the committee shall ensure that universities, corporations, associations, consumers, and other government agencies are represented.

"(4) The chairman of the advisory committee shall be designated by the Administrator.

"(5) Members of the advisory committee shall serve without pay; except that the Administrator may allow any member, while attending meetings of the advisory committee or a subordinate committee, travel or transportation expenses in accordance with section 5703 of title 5, United States Code.

"(6) The Administrator shall provide support staff for the advisory committee. The Administrator may establish subordinate committees to the advisory committee to provide advice on specific areas of research conducted under this section and section 316.

"(7) Upon request of the advisory committee, the Administrator shall provide such information, administrative services, and supplies as the Administrator determines are necessary for the advisory committee to carry out its functions.

"(8) Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this subsection.

"(9)(A) Not more than one-tenth of 1 percent of the funds made available to carry out research under this section and section 316 for

fiscal years beginning after September 30, 1988, may be used by the Administrator to carry out this subsection.

"(B) No limitation on the amount of funds available for obligation by or for the advisory committee shall be applicable with respect to the funds made available to carry out this subsection.".

SEC. 7. FUNDING.

(a) FISCAL YEAR 1989.—Section 506(b)(2)(B) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)(B)) is amended—

(1) in clause (vii), by striking "; and" and inserting in lieu thereof a comma; and

(2) by adding at the end, flush with the margin, the following: "except that not less than 15 percent of the amount appropriated pursuant to this subparagraph shall be for long-term research projects; and".

102 STAT. 3015

(b) FISCAL YEAR 1990.—Section 506(b)(2)(C) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)(C)) is amended to read as follows:

"(C) for fiscal year 1990—

"(i) $25,000,000 solely for human factors research projects and activities; and

"(ii) $221,530,000 for all other research projects and activities,

except that not less than 15 percent of the amount appropriated pursuant to this subparagraph shall be for long-term research projects.".

(c) DEFINITION.—Section 506(b)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)) is amended by adding at the end the following:

"As used in this paragraph, the term 'long-term research project means a research project which is identified as a discrete project in the aviation research plan required by section 312(d)(1) of the Federal Aviation Act of 1958 and which is unlikely to result in a final rulemaking action within 5 years, or in initial installation of operational equipment within 10 years, after the date of the commencement of such project.".

SEC. 8. AIR TRAFFIC CONTROLLER PERFORMANCE RESEARCH.

49 USC app. 1353 note.

(a) FINDINGS.—The Congress finds as follows:

(1) Research is needed to establish a more scientific approach for—

(A) identifying future staffing requirements for the air traffic control system; and

(B) developing tools needed for meeting those requirements.

(2) The Federal Aviation Administration and the National Aeronautics and Space Administration each have unique expertise and facilities for conducting research into the man-machine interface problems associated with a highly automated air traffic control system.

(b) STUDY ON INCREASED AUTOMATION.—

(1) IN GENERAL.—In order to develop the tools necessary for establishing appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system.

(2) CONTENT.—Research conducted under paragraph (1) shall include investigation of the following:

(A) Methods for improving and accelerating future air traffic controller training through the application of advanced training techniques, including use of simulation technology.

(B) The role of future automation in the air traffic control system and its physical and psychological effects on air traffic controllers.

(C) The attributes and aptitudes needed to function well in a highly automated air traffic control system, and development of appropriate testing methods for identifying individuals possessing those attributes and aptitudes.

102 STAT. 3016

(D) Innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system.

(E) New technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(3) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall report to the Congress the Administrator's plans for conducting research under this section.

(c) AGREEMENT WITH ADMINISTRATOR OF NASA.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into an agreement with the Administrator of the National Aeronautics and Space Administration for use of their unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of air traffic controllers.

(2) CONTENT.—Research under this section shall include investigation of the following:

(A) Human perceptual capabilities and the effect of computer-aided decisionmaking on the workload and performance of air traffic controllers.

(B) Information management techniques for advanced air traffic control display systems.

(C) Air traffic controller workload and performance measures, including development of predictive models.

(d) AUTHORIZATION OF APPROPRIATIONS.—For conducting research under this section there are authorized to be appropriated, from amounts in the Airport and Airway Trust Fund which are available for research and development, such sums as may be necessary.

49 USC app. 1353 note.

SEC. 9. CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES.

(a) ADVANCE NOTICE OF PROPOSED RULEMAKING.—In order to ensure greater air safety to passengers of air carriers and reduce the incidence of post-crash fires, the Administrator of the Federal Aviation Administration shall, within 90 days following the date of enactment of this Act, issue an advance notice of proposed rulemaking to determine the feasibility of installing in all air carrier aircraft crashworthy fuselage fuel tanks and fuselage fuel lines which are rupture resistant and which disconnect and seal in the event of an accident.

(b) RESEARCH.—Within 60 days following the date of enactment of

102 STAT. 3017

this Act, the Administrator shall undertake or supervise research to develop technologies which will prevent the spraying or free flow or significant quantities of fuel after an air crash or develop fuels and fuel additives which can reduce rapid fuel dispersal and combustibility, or both.

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 4686 (S. 2746):

HOUSE REPORTS: No. 100-894 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-584 accompanying S. 2746 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 20, considered and passed House.
Oct. 20, considered and passed Senate, amended.
Oct. 21, House concurred in Senate amendment.

TREASURY ACT

Public Law 100-274
100th Congress

102 STAT. 48

An Act

To authorize appropriations for the Bureau of the Mint for fiscal year 1988, and for other purposes.

Mar. 31, 1988
[H.R. 2631]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 5132(a) of title 31, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraphs:

"(2) Not more than $46,511,000 may be appropriated to the Secretary for the fiscal year ending on September 30, 1988, to pay costs of the mints. Not more than $965,000 of amounts appropriated pursuant to the preceding sentence shall remain available until expended for research and development.

"(3) Of amounts appropriated pursuant to paragraph (2), not more than $75,000 may be expended for the purpose of hosting the International Mint Directors' Conference in the United States in 1988, including reception, representation, and transportation expenses.

"(4) Notwithstanding sections 3302 and 9701 of this title, the Director of the Mint may—

"(A) collect from participants at the International Mint Directors' Conference reasonable amounts imposed as fees and other assessments in connection with such conference;

"(B) hold and administer the amounts referred to in subparagraph (A); and

"(C) spend on behalf of the United States the amounts referred to in subparagraph (A) to pay expenses incurred in connection with such conference, including reception, representation, and transportation expenses.".

SEC. 2. REDESIGNATION OF ASSAY OFFICES AS MINTS.

New York.
California.

(a) SAN FRANCISCO.—Section 5131(a)(4) of title 31, United States Code, is amended by striking out "assay office" and inserting in lieu thereof "mint".

(b) WEST POINT.—Section 5131(a)(3) of title 31, United States Code, is amended by striking out "assay office at New York" and inserting in lieu thereof "mint at West Point".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The first sentence of section 5131(b) of title 31, United States Code, is amended by striking out "and assay offices, except that only bars may be made at the assay offices".

(2) Section 5131(c) of such title is amended by striking out "and the assay office at New York have" and inserting in lieu thereof "has".

(3) Section 5132(b) of such title is amended by striking out "and assay offices".

102 STAT. 49

(4) Section 5133(a)(1) of such title is amended by striking out "and the assay office at New York and the officer in charge of the assay office at San Francisco" and by striking out "or officer".

(5) Section 5133(a)(2) of such title is amended by striking out "and the officer" and by striking out "or officer".

(6) Section 5133(a)(3) of such title is amended by striking out "and the officer".

(7) Section 5133(b) of such title is amended to read as follows:

"(b) SETTLEMENT OF ACCOUNTS.—

"(1) IN GENERAL.—At least once each year, the Secretary of the Treasury shall settle the accounts of the superintendents of the mints.

"(2) PROCEDURE.—At any settlement under this subsection, the superintendent shall—

"(A) return to the Secretary any coin, clipping, or other bullion in the possession of the superintendent; and

"(B) present the Secretary with a statement of bullion received and returned since the last settlement (including any bullion returned for settlement).

"(3) AUDIT.—The Secretary shall—

"(A) audit the accounts of each superintendent; and

"(B) allow each superintendent the waste of precious metals that the Secretary determines is necessary—

"(i) for refining and minting (within the limitations which the Secretary shall prescribe); and

"(ii) for casting fine gold and silver bars (within the limit prescribed for refining), except that any waste allowance under this clause may not apply to deposit operations.".

(8) Upon the enactment of this Act, the superintendent of the United States Assay Office at New York, New York, shall assume the position of superintendent of the Mint at West Point, New York.

(9) Section 5133(c) of such title is amended by striking out "and assay offices".

(10) Section 5133(d) of such title is amended—

(A) in the first sentence, by striking out "and assay office"; and

(B) in the third sentence, by striking out "and assay offices".

SEC. 3. PROTECTION OF INTEGRITY OF COINAGE MANUFACTURE.

Section 5111(c) of title 31, United States Code, is amended to read as follows:

"(c) PROCUREMENTS RELATING TO COIN PRODUCTION.—

Contracts. Patents and trademarks.

"(1) IN GENERAL.—The Secretary may make contracts, on conditions the Secretary decides are appropriate and are in the public interest, to acquire articles, materials, supplies, and services (including equipment, manufacturing facilities, patents, patent rights, technical knowledge, and assistance) necessary to produce the coins referred to in this title.

Defense and national security. Federal Register, publication. Patents and trademarks.

"(2) DOMESTIC CONTROL OF COINAGE.—(A) Subject to subparagraph (B), in order to protect the national security through domestic control of the coinage process, the Secretary shall acquire only such articles, materials, supplies, and services (including equipment, manufacturing facilities, patents, patent rights, technical knowledge, and assistance) for the production of coins as have been produced or manufactured in the United States unless the Secretary determines it to be inconsistent with the public interest, or the cost to be unreasonable, and publishes in the Federal Register a written finding stating the basis for the determination.

102 STAT. 50

"(B) Subparagraph (A) shall apply only in the case of a bid or offer from a supplier the principal place of business of which is in a foreign country which does not accord to United States companies the same competitive opportunities for procurements in connection with the production of coins as it accords to domestic companies.

"(3) DETERMINATION.—

"(A) IN GENERAL.—Any determination of the Secretary referred to in paragraph (2) shall not be reviewable in any administrative proceeding or court of the United States.

"(B) OTHER RIGHTS UNAFFECTED.—This paragraph does not alter or annul any right of review that arises under any provision of any law or regulation of the United States other than paragraph (2).

"(4) Nothing in paragraph (2) of this subsection in any way affects the procurement by the Secretary of gold and silver for the production of coins by the United States Mint.".

SEC. 4. STANDARDS FOR GOLD COINS.

(a) FINENESS.—Section 5112(b) of title 31, United States Code, is amended by inserting the following sentence before the last sentence: "In minting gold coins, the Secretary shall use alloys that vary not more than 0.1 percent from the percent of gold required.".

(b) WEIGHT.—Section 5113(a) of title 31, United States Code, is amended by adding at the end thereof the following new sentence: "Any gold coin issued under section 5112 of this title shall contain the full weight of gold stated on the coin.".

SEC. 5. GOLD SALES TO BE USED SOLELY TO REDUCE NATIONAL DEBT.

The second sentence of section 5116(a)(2) of title 31, United States Code, is amended to read as follows: "Amounts received from the sale of gold shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

SEC. 6. BULK SALES OF SILVER BULLION COINS.

Section 5112(f) of title 31, United States Code, is amended to read as follows:

"(f) SILVER COINS.—

"(1) SALE PRICE.—The Secretary shall sell the coins minted under subsection (e) to the public at a price equal to the market value of the bullion at the time of sale, plus the cost of minting, marketing, and distributing such coins (including labor, materials, dies, use of machinery, and promotional and overhead expenses).

"(2) BULK SALES.—The Secretary shall make bulk sales of the coins minted under subsection (e) at a reasonable discount.

"(3) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of this title, all coins minted under subsection (e) shall be considered to be numismatic items.".

Approved March 31, 1988.

LEGISLATIVE HISTORY H.R. 2631:

SENATE REPORTS: No. 100-260 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 6, considered and passed House.
Vol. 134 (1988): Feb. 17, considered and passed Senate, amended.
Mar. 10, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Mar. 31, Presidential statement.

(2) in paragraph (4), by amending the first sentence to read as follows: "The maximum amount of guaranty entitlement available to a veteran under this section shall be $20,000 reduced by the amount of any such entitlement previously used by the veteran."; and

(3) by adding at the end the following new paragraph:

38 USC 1803 note.

"(5) The amount of any loan guaranteed under this section shall not exceed an amount equal to 95 percent of the purchase price of the property securing the loan.".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to loans which are closed on or after February 1, 1988, except that they shall not apply to any loan for which a guaranty commitment is made on or before December 31, 1987.

Approved February 29, 1988.

LEGISLATIVE HISTORY—S. 2022:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 1, considered and passed Senate.
Feb. 17, considered and passed House.

Public Law 100-321
100th Congress

An Act

May 20, 1988
[H.R. 1811]

To amend title 38, United States Code, to provide a presumption of service connection to veterans (and survivors of such veterans) who participated in atmospheric or underwater nuclear tests as part of the United States nuclear weapons testing program or in the American occupation of Hiroshima or Nagasaki, Japan, and who suffer from certain diseases that may be attributable to exposure to ionizing radiation, and other purposes.

Radiation-Exposed Veterans Compensation Act of 1988.
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radiation-Exposed Veterans Compensation Act of 1988".

SEC. 2. PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN RADIATION-EXPOSED VETERANS.

(a) PRESUMPTION.—Section 312 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, a disease specified in paragraph (2) of this subsection becoming manifest in a radiation-exposed veteran to a degree of 10 percent or more within the presumption period (as specified in paragraph (3) of this subsection) shall be considered to have been incurred in or aggravated during the veteran's service on active duty, notwithstanding that there is no record of evidence of such disease during the period of such service.

"(2) The diseases referred to in paragraph (1) of this subsection are the following:

"(A) Leukemia (other than chronic lymphocytic leukemia).
"(B) Cancer of the thyroid.
"(C) Cancer of the breast.
"(D) Cancer of the pharynx.
"(E) Cancer of the esophagus.
"(F) Cancer of the stomach.
"(G) Cancer of the small intestine.
"(H) Cancer of the pancreas.
"(I) Multiple myeloma.
"(J) Lymphomas (except Hodgkin's disease).

"(K) Cancer of the bile ducts.
"(L) Cancer of the gall bladder.
"(M) Primary liver cancer (except if cirrhosis or hepatitis B is indicated).

"(3) The presumption period for purposes of paragraph (1) of this subsection is the 40-year period beginning on the last date on which the veteran participated in a radiation-risk activity, except that such period shall be the 30-year period beginning on that date in the case of leukemia (other than chronic lymphocytic leukemia).

"(4) For the purposes of this subsection: 102 STAT. 486

"(A) The term 'radiation-exposed veteran' means a veteran who, while serving on active duty, participated in a radiation-risk activity.

"(B) The term 'radiation-risk activity' means any of the following:

"(i) Onsite participation in a test involving the atmospheric detonation of a nuclear device.

"(ii) The occupation of Hiroshima or Nagasaki, Japan, by United States forces during the period beginning on August 6, 1945, and ending on July 1, 1946.

"(iii) Internment as prisoner of war in Japan (or service on active duty in Japan immediately following such internment) during World War II which (as determined by the Administrator) resulted in an opportunity for exposure to ionizing radiation comparable to that of veterans described in clause (ii) of this subparagraph.".

(b) EFFECTIVE DATE.—Subsection (c) of section 312 of title 38, United States Code, as added by subsection (a), shall take effect on May 1, 1988. 38 USC 312 note.

(c) REQUIREMENTS REGARDING VETERANS' ENVIRONMENTAL HAZARDS ADVISORY COMMITTEE SCIENTIFIC COUNCIL REPORTS.—Section 6(d)(3) of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542) is amended by striking out "the Committee and the Administrator" and inserting in lieu thereof "the Committee, the Administrator, and the Committees on Veterans' Affairs of the Senate and House of Representatives". 38 USC 354 note.

Approved May 20, 1988.

LEGISLATIVE HISTORY—H.R. 1811:

HOUSE REPORTS: No. 100-235 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): July 28, considered and passed House.
Vol. 134 (1988): Apr. 25, considered and passed Senate, amended.
May 2, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
May 20, Presidential statement.

Public Law 100-322
100th Congress

102 STAT. 487

An Act

To amend title 38, United States Code, to revise, improve, and extend various veterans' programs, and for other purposes.

May 20, 1988
[H.R. 2616]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits and Services Act of 1988".

Veterans' Benefits and Services Act of 1988.
38 USC 101 note.

(G) in paragraph (3) (as so redesignated), by striking out "furnished under this subsection" and inserting in lieu thereof "furnished under subsection (a) of this section"; and

(H) in paragraph (5) (as so redesignated), by striking out "under this subsection" and inserting in lieu thereof "under section 617 of this title".

(2) Section 612 is further amended—

(A) in the first sentence of subsection (b)(4), by striking out "subsections (a) and (f) of this section" and inserting in lieu thereof "subsection (a) of this section (other than paragraphs (3)(B) and (3)(C) of that subsection)"; and

102 STAT. 492

(B) by striking out subsection (g).

(3) Section 603(a)(2) is amended—

(A) in clause (B), by striking out "section 612(f)(1)(A)(ii) of this title" and inserting in lieu thereof "section 612(a)(4) of this title, for a purpose described in section 612(a)(5) of this title"; and

(B) in clause (C), by striking out "section 612(g)" and inserting in lieu thereof "section 612(a)(3) (other than a veteran who is a former prisoner of war)".

(f) TECHNICAL AMENDMENTS.—Section 612(b)(1)(B) is amended—

(1) in clause (i), by striking out "at time of" and inserting in lieu thereof "at the time of the veteran's";

(2) in clause (ii), by striking out "one hundred and eighty days" and inserting in lieu thereof "180 days";

(3) in clause (iii), by striking out "ninety days" each place it appears and inserting in lieu thereof "90 days"; and

(4) in clause (iv), by striking out "ninety-day" and inserting in lieu thereof "90-day".

(g) REPEAL OF DATED PROVISIONS; GRANDFATHER PROVISION.—(1) Section 612 is amended—

(A) in subsection (b)(1), by striking out subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively; and

(B) by striking out subsection (e).

38 USC 612 note.

(2) Any disability of a veteran of the Spanish-American War, upon application for outpatient medical services under section 612 or 624 of title 38, United States Code, shall be considered for the purposes thereof to be a service-connected disabilty and, for the purposes of section 612(b) of such title, to be compensable in degree.

(h) CLERICAL AMENDMENTS.—(1) The heading of section 612 is amended to read as follows:

"§ 612. Eligibility for outpatient services".

(2) The table of sections at the beginning of chapter 17 is amended—

(A) by striking out the item relating to section 612 and inserting in lieu thereof the following:

"612. Eligibility for outpatient services.";

and

(B) by striking out the item relating to section 617 and inserting in lieu thereof the following:

"617. Home health services; invalid lifts and other devices.".

38 USC 603 note.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the furnishing of medical services to veterans who apply for such services after June 30, 1988.

SEC. 102. ELIGIBILITY FOR DOMICILIARY CARE.

(a) REVISED ELIGIBILITY.—Subsection (b) of section 610 is amended to read as follows:

"(b)(1) The Administrator may furnish to a veteran described in paragraph (2) of this subsection such domiciliary care as the Administrator determines is needed for the purpose of the furnishing of medical services to the veteran.

"(2) This subsection applies in the case of the following veterans:

"(A) Any veteran whose annual income (as determined under section 503 of this title) does not exceed the maximum annual

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.
Sec. 3. Definition of Administrator.

TITLE I—HEALTH-CARE PROGRAMS

PART A—BENEFITS

Sec. 101. Eligibility for outpatient services.
Sec. 102. Eligibility for domiciliary care.
Sec. 103. Definition of nursing home care.
Sec. 104. Expansion of contract-care authority.
Sec. 105. Health care outside the United States for veterans with service-connected disabilities.
Sec. 106. Internment period required for eligibility for dental care for former prisoners of war.
Sec. 107. Readjustment counseling program.
Sec. 108. Beneficiary travel program.

PART B—PILOT PROGRAMS AND REPORTS

Sec. 111. Adult day health-care program.
Sec. 112. Report on use of contract-care authorities.
Sec. 113. Pilot program of mobile health-care clinics.
Sec. 114. Modification of report on care furnished to veterans having chronic mental illness disabilities.
Sec. 115. Pilot program of community-based residential care for homeless chronically mentally ill and other veterans.
Sec. 116. Reports on assistance to homeless veterans.

PART C—MATTERS RELATING TO AIDS

Sec. 121. Confidentiality of medical records.
Sec. 122. Nondiscrimination.
Sec. 123. Information and training concerning AIDS prevention.
Sec. 124. Restriction on testing for infection with the human immunodeficiency virus.

PART D—OTHER MATTERS

Sec. 131. Definition of Veterans' Administration medical facilities to include certain recreational facilities.
Sec. 132. Veterans' Administration assistance with rehabilitation activities.
Sec. 133. Rules and regulations relating to Veterans' Administration health care.
Sec. 134. Per diem rates for care in State homes.
Sec. 135. Medical research.
Sec. 136. Conversion of underused space to domiciliary care beds. 102 STAT. 488

TITLE II—HEALTH-CARE ADMINISTRATION AND PERSONNEL MATTERS

PART A—ADMINISTRATION

Sec. 201. Health-care quality assurance activities.
Sec. 202. Hospital cost collections.
Sec. 203. Tort claims.
Sec. 204. Nonprofit research corporations.
Sec. 205. Nursing home revolving fund.
Sec. 206. State home construction grants.

PART B—PAY AND OTHER PERSONNEL BENEFITS

Sec. 211. Additional pay authorities for nurses to be available for pharmacists and occupational therapists.
Sec. 212. Recruitment and retention bonus pay.
Sec. 213. On-call pay.
Sec. 214. Premium pay for Saturday work.
Sec. 215. Report on effect of certain pay and benefits amendments.
Sec. 216. Health Professionals Educational Assistance Program.
Sec. 217. Pay scales and awards for Department of Medicine and Surgery employees.

PART C—PERSONNEL ADMINISTRATION

Sec. 221. Disciplinary matters as to certain appointees.
Sec. 222. Personnel ceilings for noncareer research personnel.
Sec. 223. Authority to waive licensure and internship requirements for certain health-care personnel.
Sec. 224. Nurse representation on policymaking committees.

PART D—REPORTS

Sec. 231. Study of pay and other personnel management practices.
Sec. 232. Report on certain activities relating to training in geriatrics of medical and other health-professional schools affiliated with the Veterans' Administration.

TITLE III—VETERANS' BENEFITS

PART A—BENEFITS BASED ON SERVICE-CONNECTED DISABILITIES

Sec. 301. Specially adapted housing assistance.
Sec. 302. Automobile assistance allowance.
Sec. 303. Burial benefit for service-connected deaths.
Sec. 304. Effective date.

PART B—COMPENSATION-RELATED PROVISIONS

Sec. 311. Definition of former prisoner of war.
Sec. 312. Presumption of service connection for certain disabilities for former prisoners of war.
Sec. 313. Presumption of service connection for lupus.
Sec. 314. Reinstated entitlement for certain survivors.

PART C—EDUCATION PROVISIONS

Sec. 321. Measurement of laboratory instruction.
Sec. 322. Authority to waive compliance surveys.
Sec. 323. Effective date of awards under the post-Vietnam era veterans' education assistance program.

PART D—INSURANCE PROVISIONS

Sec. 331. Authority for annuity adjustments.
Sec. 332. Exemptions from State taxation.
Sec. 333. Direct administration of veterans' mortgage life insurance.

PART E—MEMORIAL AFFAIRS

Sec. 341. National cemetery grave markers.
Sec. 342. Contributions for certain projects.
Sec. 343. State veterans' cemetery construction grants.
Sec. 344. Grave liners.
Sec. 345. American Battle Monuments Commission foreign currency fluctuations.
Sec. 346. Transfer of the Arizona Veterans Memorial Cemetery to the Veterans' Administration. 102 STAT. 489

TITLE IV—VETERANS' ADMINISTRATION MANAGEMENT AND ADMINISTRATION

PART A—PROCUREMENT POLICY

Sec. 401. Integrity of contracting out process at health-care facilities.
Sec. 402. Standardization of medical and pharmaceutical items.
Sec. 403. Requirements for the procurement of health-care items.
Sec. 404. Multiyear procurement of certain medical items.

PART B—GENERAL ADMINISTRATIVE AND FINANCIAL MATTERS

Sec. 411. Sequestration rules applicable to veterans' programs.
Sec. 412. Child-care services at Veterans' Administration facilities.
Sec. 413. Advisory Committee on Native-American Veterans.
Sec. 414. Management of canteen service.
Sec. 415. Technical amendments to chapter 37.

PART C—REAL PROPERTY

Sec. 421. Limitation on transfer of property to other agencies.
Sec. 422. Congressional procedures for approval of medical facility acquisition and construction.
Sec. 423. Use of former hospital in Minot, North Dakota.
Sec. 424. Naming of Veterans' Administration Medical Center in Shreveport, Louisiana.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. DEFINITION OF ADMINISTRATOR. 38 USC 101 note.

For purposes of this Act, the term "Administrator" means the Administrator of Veterans' Affairs.

TITLE I—HEALTH-CARE PROGRAMS

PART A—BENEFITS

SEC. 101. ELIGIBILITY FOR OUTPATIENT SERVICES.

(a) CERTAIN VETERANS WITH SERVICE-CONNECTED DISABILITIES.—Paragraph (1) of section 612(a) is amended—

(1) in the matter preceding clause (A), by striking out "may furnish" and inserting in lieu thereof "shall furnish on an ambulatory or outpatient basis";

(2) by striking out "and" at the end of clause (A);

(3) by striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following new clause:

"(C) to any veteran for a disability for which the veteran is in receipt of compensation under section 351 of this title or for which the veteran would be entitled to compensation under that section but for a suspension pursuant to that section (but in the case of such a suspension, such medical services may be furnished only to the extent that such person's continuing eligibility for medical services is provided for in the judgment or settlement described in that section).".

(b) OTHER VETERANS.—Section 612(a) is further amended—

(1) by striking out paragraph (2);

(2) by redesignating paragraph (3) as paragraph (6); and

(3) by inserting after paragraph (1) the following:

102 STAT. 490

"(2) The Administrator shall furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection—

"(A) to any veteran who has a service-connected disability rated at 30 percent or 40 percent; and

"(B) to any veteran who is eligible for hospital care under section 610(a) of this title and whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title.

"(3) The Administrator may furnish on an ambulatory or outpatient basis medical services which the Administrator determines are needed—

"(A) to any veteran who is a former prisoner of war;

"(B) to any veteran of the Mexican border period or of World War I; and

"(C) to any veteran who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance).

"(4) Subject to subsection (f) of this section, the Administrator may furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection to any veteran who is eligible for hospital care under section 610 of this title and who is not otherwise eligible for such services under this subsection.

"(5)(A) Medical services for a purpose described in this paragraph are medical services reasonably necessary in preparation for hospital admission or to obviate the need of hospital admission. In the case of a veteran described in paragraph (4) of this subsection, services to obviate the need of hospital admission may be furnished only to the extent that facilities are available.

"(B) In the case of a veteran who has been furnished hospital care, nursing home care, or domiciliary care, medical services for a purpose described in this paragraph include medical services reasonably necessary to complete treatment incident to such care. Such medical services may not be provided for a period in excess of 12 months after discharge from such care. However, the Administrator may authorize a longer period in any case if the Administrator finds

that a longer period is required by reason of the disability being treated.".

(c) PRIORITY FOR OUTPATIENT SERVICES.—Section 612(i) is amended by striking out paragraphs (1) through (6) and inserting in lieu thereof the following:

"(1) To a veteran who is entitled to such services under paragraph (1) or (2) of subsection (a) of this section.

"(2) To a veteran (A) who has a service-connected disability rated at less than 30-percent disabling, or (B) who is being examined to determine the existence or severity of a service-connected disability.

"(3) To a veteran (A) who is a former prisoner of war, or (B) who is eligible for hospital care under section 610(e) of this title.

"(4) To a veteran eligible for medical services under subsection (a)(3)(B) or (a)(3)(C) of this section.

"(5) To a veteran not covered by paragraphs (1) through (4) of this subsection who is unable to defray the expenses of necessary care as determined under section 622(a)(1)(C) of this title.". 102 STAT. 491

(d) HOME HEALTH SERVICES.—(1) Section 617 is amended—

(A) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(B) by inserting after the section heading the following new subsection (a):

"(a)(1) As part of medical services furnished to a veteran under section 612(a) of this title, the Administrator may furnish such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of the veteran's disability.

"(2) Improvements and structural alterations may be furnished as part of such home health services only as necessary to assure the continuation of treatment for the veteran's disability or to provide access to the home or to essential lavatory and sanitary facilities. The cost of such improvements and structural alterations (or the amount of reimbursement therefor) under this subsection may not exceed—

"(A) $2,500 in the case of medical services furnished under paragraph (1) of section 612(a) of this title; or

"(B) $600 in the case of medical services furnished under any other provision of section 612 of this title.".

(2) Subsection (k) of section 612 is transferred to section 617 (as amended by paragraph (1)), inserted at the end of subsection (a) (as added by paragraph (1)), and redesignated as paragraph (3).

(3) The heading of section 617 is amended to read as follows:

"**§ 617. Home health services; invalid lifts and other devices**".

(e) CONFORMING AMENDMENTS.—(1) Section 612(f) is amended—

(A) by striking out paragraphs (1), (2), and (3);

(B) by striking out "(4)(A) The Administrator may not furnish medical services under this subsection (including home health services under paragraph (2) of this subsection)" and inserting in lieu thereof "(1) The Administrator may not furnish medical services under subsection (a) of this section (including home health services under section 617 of this title)";

(C) by striking out "subparagraph (B) of this paragraph" and inserting in lieu thereof "paragraph (2) of this subsection";

(D) by redesignating subparagraphs (B) through (G) as paragraphs (2) through (7), respectively;

(E) by striking out "this paragraph" each place it appears in such paragraphs and inserting in lieu thereof "this subsection";

(F) in paragraph (2) (as so redesignated), by striking out "this subsection and who is required under subparagraph (A)" and inserting in lieu thereof "subsection (a) of this section and who is required under paragraph (1)";

rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title. 102 STAT. 493

"(B) Any veteran who the Administrator determines has no adequate means of support.".

(b) CONFORMING AMENDMENT.—Section 622(g) is amended by striking out "sections 610(b)(2) and" and inserting in lieu thereof "section".

(c) SAVINGS PROVISION.—The amendment made by subsection (a) shall not limit or restrict the eligibility for domiciliary care of a veteran who was a patient or a resident in a State home facility or a Veterans' Administration domiciliary facility during the period beginning on January 1, 1987, and ending on April 1, 1988.

Effective date. Termination date. 38 USC 610 note.

SEC. 103. DEFINITION OF NURSING HOME CARE.

(a) CLARIFICATION OF DEFINITION.—Section 101(28) is amended—

(1) by striking out "skilled" in the first sentence; and

(2) by striking out the second sentence and inserting in lieu thereof the following: "Such term includes services furnished in skilled nursing care facilities, in intermediate care facilities, and in combined facilities. It does not include domiciliary care.".

(b) CONFORMING AMENDMENTS.—Section 620(e)(1) is amended—

(1) by striking out the first sentence; and

(2) by striking out "(as defined in section 101(28) of this title)".

SEC. 104. EXPANSION OF CONTRACT-CARE AUTHORITY.

(a) ADDITIONAL COVERED SERVICES.—Section 603(a) is amended—

(1) in clause (3), by inserting "or nursing home care under section 620 of this title" after "Veterans' Administration facility" the first place it appears; and

(2) by adding at the end the following new paragraph:

"(8) Diagnostic services (on an inpatient or outpatient basis) for observation or examination of a person to determine eligibility for a benefit or service under laws administered by the Veterans' Administration.".

(b) STYLISTIC AMENDMENTS.—Section 603(a) is further amended—

(1) in the matter preceding clause (1), by striking out "furnish—" and inserting in lieu thereof "furnish any of the following:";

(2) in each of clauses (1) through (7), by capitalizing the first letter of the first word;

(3) at the end of each of clauses (1) through (5), by striking out the semicolon and inserting in lieu thereof a period; and

(4) at the end of clause (6), by striking out "; or" and inserting in lieu thereof a period.

SEC. 105. HEALTH CARE OUTSIDE THE UNITED STATES FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

Section 624(b) is amended to read as follows:

"(b)(1) The Administrator may furnish hospital care and medical services outside a State to a veteran who is otherwise eligible to receive hospital care and medical services if the Administrator determines that such care and services are needed for the treatment of a service-connected disability of the veteran or as part of a rehabilitation program under chapter 31 of this title. 102 STAT. 494

"(2) Care and services for a service-connected disability of a veteran who is not a citizen of the United States may be furnished under this subsection only—

"(A) if the veteran is in the Republic of the Philippines or in Canada; or

"(B) if the Administrator determines, as a matter of discretion and pursuant to regulations which the Administrator shall prescribe, that it is appropriate and feasible to furnish such care and services.".

SEC. 106. INTERNMENT PERIOD REQUIRED FOR ELIGIBILITY FOR DENTAL CARE FOR FORMER PRISONERS OF WAR.

Section 612(b)(1)(F) (as redesignated by section 101(g)(1)) is amended by striking out "six months" and inserting in lieu thereof "90 days".

SEC. 107. READJUSTMENT COUNSELING PROGRAM.

(a) REPEAL OF TRANSITION REQUIREMENT.—Subsection (g)(1) of section 612A is amended to read as follows:

"(g)(1)(A) The Administrator may close or relocate a center in existence on January 1, 1988, only as described in the national plan required by paragraph (3) of this subsection (or in a revision to such plan under paragraph (4) of this subsection in which the closure or relocation of that center is proposed).

"(B) A closure or relocation of a center which is proposed in such national plan may be carried out only after the end of the 120-day period beginning on the date on which the national plan is submitted. A closure or relocation of a center not proposed in such plan may be carried out only after the end of the 60-day period beginning on the date the Administrator submits a revision to such plan in which the closure or relocation of that center is proposed.".

(b) CHANGE IN REPORT DEADLINE.—Paragraph (2)(A) of section 612A(g) is amended—

(1) by striking out "April 1, 1987" and inserting in lieu thereof "April 1, 1988"; and

(2) by striking out "(or" and all that follows through "available)".

(c) REQUIREMENT FOR A NATIONAL PLAN.—Section 612A(g) is further amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

Reports.

"(3)(A) The Administrator, after considering the recommendations of the Chief Medical Director, shall submit to such committees a report setting forth a national plan for all centers in existence on January 1, 1988. Such national plan shall set forth the Administrator's proposals as to each such center for a period (to be determined by the Administrator) of not less than 12 months beginning on the date of the submission of the report. The plan shall include, as to each center, whether the Administrator proposes to relocate the center to a general Veterans' Administration facility, relocate the center to a new location away from a general Veterans' Administration facility, expand the center in the same location, or close the center. The plan shall also set forth any proposal of the Administrator to open additional centers.

"(B) The plan shall include the Administrator's evaluation as to how, in light of each of the criteria described in subparagraph (C) of this paragraph, the proposal set forth in the plan for each center

102 STAT. 495

covered by the plan would ensure the continued availability and effective furnishing of readjustment counseling services to eligible veterans needing such services in the geographic area served by that center.

"(C) The Administrator shall make the evaluation described in subparagraph (B) of this paragraph with respect to any center in light of the following:

"(i) The distribution of Vietnam-era veterans in the geographic area served by the center and the relationships between the location of such center and the general Veterans' Administration facility and such distribution.

"(ii) The distance between the center and the general Veterans' Administration facility.

"(iii) The availability of other entities (such as State, local, or private outreach facilities) which provide assistance to Vietnam-era veterans in the area served by the center.

"(iv) The availability of transportation to, and parking at, the center and the general Veterans' Administration facility.

"(v) The availability, cost, and suitability of the space at the general Veterans' Administration facility.

"(vi) The overall cost impact of the proposed closure or relocation, including a comparison of the recurring nonpersonnel costs of providing readjustment counseling to the same estimated number of veterans at the center and the general Veterans' Administration facility.

"(vii) The workload trends over the two previous fiscal years, and projected over the next fiscal year (or longer), at the center.

"(viii) Such other factors as the Administrator determines to be relevant to making the evaluation described in subparagraph (B) of this paragraph.

"(D) For the purposes of this paragraph, the term 'general Veterans' Administration facility' means a Veterans' Administration facility which is not a center and at which readjustment counseling would be furnished in a particular geographic area upon the closure or relocation of a center.

"(4) After submitting the plan required by paragraph (3) of this subsection, the Administrator may submit to the committees a revision to such plan in order to modify the proposal set forth in the plan as to any center. Any such revision shall include, with respect to each center addressed in the revision, a description of the Administrator's evaluation of the matters specified in paragraphs (3)(B) and (3)(C) of this subsection.

"(5) For purposes of determining a period of time under paragraph (1)(B) of this subsection, if the national plan (or a revision to the national plan) is submitted to the committees during the 121-day period beginning 60 days before and ending 60 days after the final day of a session of the Congress, it shall be deemed to have been submitted on the sixty-first day after the final day of such session.".

(d) DEFINITIONS.—Section 612A is further amended by adding at the end the following new subsection:

"(i) For the purposes of this section:

"(1) The term 'center' means a facility (including a Resource Center designated under subsection (h)(3)(A) of this section) which is operated by the Veterans' Administration for the provision of services under this section and which (A) is situated apart from Veterans' Administration general health-care facilities, or (B) was so situated but has been relocated to a Veterans' Administration general health-care facility.

102 STAT. 496

"(2) The term 'Veterans' Administration general health-care facility' means a health-care facility which is operated by the Veterans' Administration for the furnishing of health-care services under this chapter, not limited to services provided through the program established under this section.".

(e) CONFORMING AMENDMENTS.—(1) Subsection (g)(2)(B) of section 612A is amended—

(A) in clause (i), by striking out "a program" and all that follows through "health-care facilities" and inserting in lieu thereof "centers"; and

(B) in clause (ii), by striking out "paragraph (1) of".

(2) Subsection (h) of such section is amended—

(A) in paragraph (3)(B), by striking out " 'Centers' " and inserting in lieu thereof " 'Resource Centers' "; and

(B) in paragraphs (4)(A), (4)(B), and (5), by striking out "Center" and inserting in lieu thereof "Resource Center".

(f) PROHIBITION OF DELEGATION OF DUTIES.—The Chief Medical Director of the Veterans' Administration may not delegate the function of making recommendations under section 612A(g)(3)(A) of title 38, United States Code, as amended by subsection (c).

38 USC 612A note.

SEC. 108. BENEFICIARY TRAVEL PROGRAM.

(a) PROGRAM REVISIONS.—Section 111 is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (a) the following new subsections (b) and (c):

"(b)(1) Except as provided in subsection (c) of this section and notwithstanding subsection (g)(2)(A) of this section or any other

provision of law, if, with respect to any fiscal year, the Administrator exercises the authority under this section to make any payments, the Administrator shall make the payments provided for in this section to or for the following persons for travel during such fiscal year for examination, treatment, or care for which the person is eligible:

"(A) A veteran or other person whose travel is in connection with treatment or care for a service-connected disability.

"(B) A veteran with a service-connected disability rated at 30 percent or more.

"(C) A veteran receiving pension under section 521 of this title.

"(D) A veteran (i) whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 521 of this title, or (ii) who is determined, under regulations prescribed by the Administrator, to be unable to defray the expenses of the travel for which payment under this section is claimed.

"(E) Subject to paragraph (3) of this subsection, a veteran or other person whose travel to or from a Veterans' Administration facility is medically required to be performed by a special mode of travel and who is determined under such regulations to be unable to defray the expenses of the travel for which payment under this section is claimed.

"(F) A veteran whose travel to a Veterans' Administration facility is incident to a scheduled compensation and pension examination.

102 STAT. 497

"(2) The Administrator may make payments provided for in this section to or for any person not covered by paragraph (1) of this subsection for travel by such person for examination, treatment, or care. Such payments shall be made in accordance with regulations which the Administrator shall prescribe.

"(3)(A) Except as provided in subparagraph (B) of this paragraph, the Administrator shall not make payments under this section for travel performed by a special mode of travel unless (i) the travel by such mode is medically required and is authorized by the Administrator before the travel begins, or (ii) the travel by such mode is in connection with a medical emergency of such a nature that the delay incident to obtaining authorization from the Administrator to use that mode of travel would have been hazardous to the person's life or health.

"(B) In the case of travel by a person to or from the Veteran's Administration facility by special mode of travel, the Administrator may provide payment under this section to the provider of the transportation by special mode before determining the eligibility of such person for such payment if the Administrator determines that providing such payment is in the best interest of furnishing care and services. Such a payment shall be made subject to subsequently recovering from such person the amount of the payment if such person is determined to have been ineligible for payment for such travel.

"(c)(1) Except as otherwise provided in this subsection, the Administrator, in making a payment under this section to or for a person described in subparagraph (A), (B), (C), or (D) of subsection (b)(1) of this section for travel for examination, treatment, or care, shall deduct from the amount otherwise payable an amount equal to $3 for each one-way trip.

"(2) In the case of a person who is determined by the Administrator to be a person who is required to make six or more one-way trips for needed examination, treatment, or care during the remainder of the calendar month in which the determination is made or during any subsequent calendar month during the one-year period following the last day of the month in which the determination is made, the amount deducted by the Administrator pursuant to paragraph (1) of this subsection from payments for trips made to or from

such facility during any such month shall not, except as provided in paragraph (5) of this subsection, exceed $18.

"(3) No deduction shall be made pursuant to paragraph (1) of this subsection in the case of a person whose travel to or from a Veterans' Administration facility is performed by a special mode of travel for which payment under this section is authorized under subsection (b)(3) of this section.

"(4) The Administrator may waive the deduction requirement of paragraph (1) of this subsection in the case of the travel of any veteran for whom the imposition of the deduction would cause severe financial hardship. The Administrator shall prescribe in regulations the conditions under which a finding of severe financial hardship is warranted for purposes of this paragraph. Regulations.

"(5) Whenever the Administrator increases or decreases the rates of allowances or reimbursement to be paid under this section, the Administrator shall, effective on the date on which such increase or decrease takes effect, adjust proportionately the dollar amounts specified in paragraphs (1) and (2) of this subsection as such amounts may have been increased or decreased pursuant to this paragraph before such date.". 102 STAT. 498

(b) VOLUNTEER TRANSPORTATION.—(1) Such section is further amended by adding at the end the following new subsection:

"(h) The Administrator, in consultation and coordination with the Secretary of Transportation and appropriate representatives of veterans' service organizations, shall take all appropriate steps to facilitate the establishment and maintenance of a program under which such organizations, or individuals who are volunteering their services to the Veterans' Administration, would take responsibility for the transportation, without reimbursement from the Veterans' Administration, to Veterans' Administration facilities of veterans (primarily those residing in areas which are geographically accessible to such facilities) who seek services or benefits from the Veterans' Administration under chapter 17 or other provisions of this title.".

(2) Not later than six months after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the implementation of subsection (h) of section 111 of title 38, United States Code, as added by paragraph (1). Reports.

(c) CONFORMING AMENDMENTS.—Paragraph (4) of subsection (g) of such section (as redesignated by subsection (a)(1)) is amended—

(1) by inserting "or adjusting amounts" after "rates" the first place it appears; and

(2) by inserting "and amounts" after "rates" the third place it appears.

(d) STYLISTIC AMENDMENTS.—Subsection (d) of such section (as redesignated by subsection (a)(1)) is amended—

(1) in paragraph (1)—

(A) by striking out "the" and inserting in lieu thereof "The"; and

(B) by striking out "hereof;" and inserting in lieu thereof "of this section.";

(2) in paragraph (2)—

(A) by striking out "actual" and inserting in lieu thereof "Actual"; and

(B) by striking out the semicolon at the end and inserting in lieu thereof a period; and

(3) in paragraph (3), by striking out "the expense" and inserting in lieu thereof "The expense".

(e) CLERICAL AMENDMENTS.—(1) The heading of section 111 is amended to read as follows:

"§ 111. Payments or allowances for beneficiary travel".

(2) The item relating to such section in the table of sections at the beginning of chapter 1 is amended to read as follows:

"111. Payments or allowances for beneficiary travel.".

38 USC 111 note.

(f) TRANSITION PROVISION.—In determining for the purposes of subsection (b)(1) of section 111 of title 38, United States Code, as amended by subsection (a), whether during fiscal year 1988 the Administrator has exercised the authority under that section to make payments there shall be disregarded any exercise of authority under that section before the date of the enactment of this Act.

102 STAT. 499

(g) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to travel performed after June 30, 1988.

PART B—PILOT PROGRAMS AND REPORTS

SEC. 111. ADULT DAY HEALTH-CARE PROGRAM.

(a) THREE-YEAR EXTENSION.—Section 620(f)(3) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1991".

38 USC 620 note.

(b) STUDY REQUIREMENT.—The Administrator shall conduct a study of—

(1) the medical efficacy and the cost-effectiveness of furnishing adult day health care under section 620(f) of title 38, United States Code, as an alternative to nursing home care; and

(2) the comparative advantages and disadvantages of providing such care through facilities that are not under the direct jurisdiction of the Administrator and through facilities that are under the direct jurisdiction of the Administrator.

(c) REPORTS.—(1) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives—

(A) an interim report on the study under subsection (b) not later than February 1, 1988; and

(B) a final report on such study not later than February 1, 1991.

(2) Each such report shall include—

(A) the results of the study under subsection (b) through September 30 of the year preceding the deadline under paragraph (1) for submission of the report; and

(B) any other recommendation that the Administrator considers appropriate for legislative or administrative action with respect to the furnishing of adult day health care under section 620(f) of title 38, United States Code.

(d) REPEAL OF EXISTING STUDY AND REPORT REQUIREMENTS.—Subsections (b) and (c) of section 103 of Public Law 98-160 (38 U.S.C. 620 note) are repealed.

SEC. 112. REPORT ON USE OF CONTRACT-CARE AUTHORITIES.

(a) REVISED REPORT REQUIREMENT.—Section 603 is amended by adding at the end the following new subsection:

"(c) The Administrator shall include in the budget documents which the Administrator submits to Congress for any fiscal year a detailed report on the furnishing of contract care and services during the most recently completed fiscal year under this section, sections 612A, 620, 620A, 624, and 632 of this title, and section 115 of the Veterans' Benefits and Services Act of 1988.".

(b) REPEAL OF PREVIOUS REQUIREMENT.—Section 201(b) of the Veterans' Health Care Amendments of 1979 (Public Law 96-22; 93 Stat. 54) is repealed.

38 USC 601 note.

38 USC 612 note.

SEC. 113. PILOT PROGRAM OF MOBILE HEALTH-CARE CLINICS.

Rural areas.

(a) PROGRAM.—(1) In order to evaluate the desirability of using mobile health-care clinics to increase the access to Veterans' Administration health-care services of veterans who reside in isolated rural areas, the Administrator may conduct a pilot program under which eligible veterans residing in areas which are at least

100 miles from the nearest Veterans' Administration health-care facility are furnished health-care services at a location convenient to their residences by Veterans' Administration employees furnishing such services through the use of appropriately equipped mobile health-care clinics. The pilot program shall be conducted for a period of not less than 24 months. 102 STAT. 500

(2) The pilot program authorized by paragraph (1) shall be carried out using at least two mobile health-care clinics in each of the following geographic areas of the United States: the Northeast, the Midwest, the South, and the West.

(b) FUNDING.—There is authorized to be appropriated $5,000,000 for each of fiscal years 1989 and 1990 in order to carry out this section. No funds may be used for the pilot program unless specifically appropriated for that purpose. Appropriation authorization.

(c) EVALUATION.—In carrying out the pilot program, the Administrator shall evaluate the efficacy and cost-effectiveness of furnishing care to eligible veterans through the use of mobile health-care clinics.

(d) REPORTS.—Not later than 20 months after the first health-care service under the pilot program is furnished, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an interim report on the implementation, operation, and results of the first 17 months' experience under the pilot program. Not later than 27 months after the beginning of the pilot program, the Administrator shall submit to such committees a final such report. Each such report shall include the following:

(1) Information on the health-care services that were furnished under such pilot program and a detailed specification of the costs of furnishing such services.

(2) Information describing the veterans who were furnished services under the pilot program, including a detailed description with respect to service connection, age, prior access to and use of Veterans' Administration care and services, and the financial need of such veterans.

(3) The preliminary or final results of the Administrator's evaluation.

(4) Any plans for administrative action, and any recommendations for legislation, that the Administrator considers appropriate to include in the report.

SEC. 114. MODIFICATION OF REPORT ON CARE FURNISHED TO VETERANS HAVING CHRONIC MENTAL ILLNESS DISABILITIES. 38 USC 612 note.

(a) REPORT ON INSTITUTIONAL CARE FURNISHED MENTALLY ILL VETERANS.—The report required by section 235 of the Veterans' Benefits Improvement and Health Care Authorization Act of 1986 (Public Law 99-576; 100 Stat. 3266) shall, to the extent feasible, include (1) information on the number of veterans being treated by the Veterans' Administration for mental illness disabilities who were furnished hospital, domiciliary, or nursing home care by the Administrator during each of fiscal years 1986, 1987, and 1988, shown by type of care furnished and the duration of such care, and (2) the Administrator's analysis of any change in the numbers of veterans being furnished any type of such care during such fiscal years, with particular emphasis on the effect of the implementation by the Veterans' Administration of a resource allocation methodology. 102 STAT. 501

(b) DEADLINE FOR SUBMISSION OF REPORT.—Notwithstanding the date specified in subsection (c) of such section, the report required by such section shall be submitted not later than December 15, 1988.

SEC. 115. PILOT PROGRAM OF COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL AND OTHER VETERANS. 38 USC 612 note.

(a) AUTHORITY FOR PROGRAM.—(1) The Administrator shall conduct a pilot program to provide care and treatment and rehabilita-

tive services (directly or by contract) in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities to homeless veterans suffering from chronic mental illness disabilities who are eligible for care under section 610(a)(1) of title 38, United States Code.

(2) As part of the pilot program, the Administrator may also provide such care and treatment and rehabilitative services—

(A) to veterans being furnished hospital or nursing home care by the Administrator for a chronic mental illness disability; and

(B) to veterans with service-connected chronic mental illness disabilities.

(b) CRITERIA FOR FACILITIES.—Before furnishing care and treatment and rehabilitative services by contract under subsection (a) to a veteran through a facility described in subsection (a), the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services.

(c) IN-KIND ASSISTANCE.—The Administrator may provide in-kind assistance (through the services of Veterans' Administration employees and the sharing of other Veterans' Administration resources) to a facility described in subsection (a) under this section.

Contracts.

Any such in-kind assistance shall be provided under a contract between the Veterans' Administration and the contract facility. The Administrator may provide such assistance only for use solely in the furnishing of appropriate care and services under this section and only if, under such contract, the Veterans' Administration receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Veterans' Administration facility that provided the assistance.

Termination date.

(d) DURATION OF PROGRAM.—The authority for the pilot program authorized by this section expires on September 30, 1989.

(e) REPORT.—Not later than February 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience of the Veterans' Administration under the pilot program through September 30, 1988, and the recommendation of the Administrator (together with the reasons for such recommendation) as to whether the pilot program should be continued.

Appropriation authorization.

(f) FUNDING.—(1) There is authorized to be appropriated for the pilot program under this section $6,000,000 for each of fiscal years 1988 and 1989.

102 STAT. 502

(2) Of the amounts appropriated for the pilot program for each such fiscal year, not less than $250,000 shall be expended for management and monitoring of the program to ensure that a high quality of care is provided under the program and to ensure an accurate accounting of funds for the program.

(3) During fiscal year 1989, funds may not be obligated for the pilot program under this section other than funds specifically appropriated for that program.

(g) REPEAL OF CONTRACT AUTHORITY IN TITLE 38.—(1) Section 620C is repealed.

(2) The table of sections at the beginning of chapter 17 is amended by striking out the item relating to that section.

38 USC 214 note.

SEC. 116. REPORTS ON ASSISTANCE TO HOMELESS VETERANS.

Not later than December 15 of each of 1988, 1989, and 1990, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities (including outreach activities and delivery of medical benefits and other benefits) of the Veterans' Administration during the preceding fiscal year to assist homeless veterans. The report shall include any suggestions of the Administrator for changes in those activities.

offense, up to the maximum amount provided under section 3301(f) of this title for a subsequent offense under that section.".

(e) CROSS-REFERENCE AMENDMENTS.—(1) Subsection (a) of such section is amended by striking out "subsection (e)" and inserting in lieu thereof "subsections (e) and (f)".

(2) Subsection (c) of such section is amended by striking out "subsection (b)(2)(C)" and inserting in lieu thereof "subsection (b)(2)(D)".

SEC. 122. NONDISCRIMINATION.

(a) ADMISSION AND TREATMENT OF PERSONS INFECTED WITH THE HUMAN IMMUNODEFICIENCY VIRUS.—Sections 4133 and 4134 are amended to read as follows:

"§ 4133. Nondiscrimination against alcohol and drug abusers and persons infected with the human immunodeficiency virus

"(a) Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers or who are infected with the human immunodeficiency virus shall not be discriminated against in admission or treatment by any Veterans' Administration health-care facility solely because of their alcohol or drug abuse or dependency or because of their viral infection.

Regulations.

"(b) The Administrator shall prescribe regulations for the enforcement of this section. Such regulations, with respect to the admission and treatment of such veterans who are alcohol or drug abusers, shall be prescribed in accordance with section 4134 of this title.

102 STAT. 504

"§ 4134. Regulations

Research and development.

"(a) Regulations prescribed by the Administrator under section 4131 of this title, section 4132 of this title with respect to the confidentiality of alcohol and drug abuse medical records, and section 4133 of this title with respect to alcohol or drug abusers shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations described in subsection (b) of this section to the conduct of research and to the provision of hospital care, nursing home care, domiciliary care, and medical services under this title.

"(b) The regulations referred to in subsection (a) of this section are—

"(1) regulations governing human experimentation and informed consent prescribed by the Secretary of Health and Human Services, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act (Public Law 93-348; 88 Stat. 348); and

"(2) regulations governing (A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4551 et seq.) and the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1101 et seq.).

"(c) Regulations prescribed by the Administrator under sections 4131, 4132, and 4133 of this title may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 4132(b)(2)(C) of this title), as are necessary to prevent circumvention or evasion of such regulations or to facilitate compliance with such regulations.

"(d) In prescribing and implementing such regulations, the Administrator shall, from time to time, consult with the Secretary of Health and Human Services and, as appropriate, with the President (or the delegate of the President) in order to achieve the maximum possible coordination of the regulations, and the

"(A) The employee is employed in a position listed in paragraph (3) of section 4104 of this title or meets the criteria specified in subclauses (i), (ii), and (iii) of subsection (g)(1)(B) of this section.

"(B) The employee is employed in a work unit for which on-call premium pay is authorized.

"(C) The employee is officially scheduled to be on call outside such employee's regular hours or on a holiday designated by Federal statute or Executive order.

"(3) An employee who is eligible for on-call pay under paragraph (1) of this subsection and who was receiving standby premium pay pursuant to section 5545 of title 5 on the date of the enactment of this subsection shall, as long as such employee is employed in the same position and work unit and remains eligible for such standby pay, receive pay for any period of on-call duty at the rate equal to the greater of (A) the rate of pay which such employee would receive if being paid the rate of standby pay pursuant to such section that such individual would be entitled to receive if such individual were not scheduled to be on call instead, or (B) the rate of pay which such employee is entitled to receive including on-call premium pay described in paragraph (1) of this subsection.".

SEC. 214. PREMIUM PAY FOR SATURDAY WORK.

(a) EXTENSION OF SUNDAY WORK PREMIUM PAY.—Paragraph (3) of section 4107(e) is amended by striking out "Saturday" and inserting in lieu thereof "Friday".

(b) CONFORMING AMENDMENTS.—(1) Subparagraph (A) of paragraph (10) of such section is amended to read as follows:

"(A) Notwithstanding any other provision of law and subject to subparagraph (B) of this paragraph, the Administrator may increase the rates of additional pay authorized under paragraphs (2) through (8) of this subsection if the Administrator determines that it is necessary to do so in order to obtain or retain the services of nurses.".

(2) Such paragraph is further amended—

(A) in subparagraph (B), by striking out "subparagraph (A)(i)" and inserting in lieu thereof "subparagraph (A)"; and

(B) by striking out subparagraph (C).

102 STAT. 517

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to tours of duty performed by nurses which begin on or after the first day of the first pay period beginning on or after the date of the enactment of this Act.

38 USC 4107 note.

SEC. 215. REPORT ON EFFECT OF CERTAIN PAY AND BENEFITS AMENDMENTS.

38 USC 4104 note.

Health care professionals.

Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of the amendments made by sections 211 through 214, relating to pay and benefits for various health care professionals in the Department of Medicine and Surgery. The report—

(1) shall particularly describe the effect of such amendments and other provisions of law on the ability of the Veterans' Administration to meet its requirements for nurses, pharmacists, occupational therapists, and physical therapists; and

(2) shall include such recommendations for further legislative action as the Administrator considers appropriate.

SEC. 216. HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM.

(a) REPEAL OF OLD PROGRAM.—Subchapter IV of chapter 73 is repealed.

(b) IMPROVED AND EXPANDED PROGRAM.—Part V is amended by adding at the end the following new chapter:

PART C—MATTERS RELATING TO AIDS

SEC. 121. CONFIDENTIALITY OF MEDICAL RECORDS.

(a) GENERAL RULE.—Subsection (a) of section 4132 is amended—

(1) by inserting "(1)" before "Records";

(2) by inserting "infection with the human immunodeficiency virus," after "alcohol abuse,"; and

(3) by adding at the end the following new paragraph:

"(2) Paragraph (1) of this subsection prohibits the disclosure to any person or entity other than the patient or subject concerned of the fact that a special written consent is required in order for such records to be disclosed.".

(b) PUBLIC HEALTH EXCEPTION.—Subsection (b) of such section is amended—

(1) in paragraph (1), by striking out "pursuant to section 4134 of this title"; and

(2) in paragraph (2)—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph (C):

State and local governments.

"(C)(i) In the case of any record which is maintained in connection with the performance of any program or activity relating to infection with the human immunodeficiency virus, to a Federal, State, or local public-health authority, charged under Federal or State law with the protection of the public health, and to which Federal or State law requires disclosure of such record, if a qualified representative of such authority has made a written request that such record be provided as required pursuant to such law for a purpose authorized by such law.

"(ii) A person to whom a record is disclosed under this paragraph may not redisclose or use such record for a purpose other than that for which the disclosure was made.".

(c) DISCLOSURE TO SPOUSE OR SEXUAL PARTNER.—Such section is further amended—

(1) by redesignating subsection (f) as subsection (g); and

102 STAT. 503

(2) by inserting after subsection (e) the following new subsection (f):

Health care professionals.

"(f)(1) Notwithstanding subsection (a) of this section but subject to paragraph (2) of this subsection, a physician or a professional counselor may disclose information or records indicating that a patient or subject is infected with the human immunodeficiency virus if the disclosure is made to (A) the spouse of the patient or subject, or (B) to an individual whom the patient or subject has, during the process of professional counseling or of testing to determine whether the patient or subject is infected with such virus, identified as being a sexual partner of such patient or subject.

"(2)(A) A disclosure under paragraph (1) of this subsection may be made only if the physician or counselor, after making reasonable efforts to counsel and encourage the patient or subject to provide the information to the spouse or sexual partner, reasonably believes that the patient or subject will not provide the information to the spouse or sexual partner and that the disclosure is necessary to protect the health of the spouse or sexual partner.

"(B) A disclosure under such paragraph may be made by a physician or counselor other than the physician or counselor referred to in subparagraph (A) of this paragraph if such physician or counselor is unavailable by reason of absence or termination of employment to make the disclosure.

(d) PENALTY FOR UNAUTHORIZED DISCLOSURE.—Subsection (g) of such section (as redesignated by paragraph (4)(A)) is amended by striking out "shall be fined" and all that follows and inserting in lieu thereof "shall be fined, in the case of a first offense, up to the maximum amount provided under section 3301(f) of this title for a first offense under that section and, in the case of a subsequent

implementation of the regulations, which they and the Administrator prescribe.".

(b) CLERICAL AMENDMENT.—The items relating to sections 4133 and 4134 in the table of sections at the beginning of chapter 73 of such title are amended to read as follows:

"4133. Nondiscrimination against alcohol and drug abusers and persons infected with human immunodeficiency virus.

"4134. Regulations.".

SEC. 123. INFORMATION AND TRAINING CONCERNING AIDS PREVENTION. 38 USC 210 note.

(a) INFORMATION PROGRAM.—The Administrator shall establish and carry out an information program relating to the acquired immune deficiency syndrome (hereinafter in this section referred to as "AIDS"). The information program shall be for employees and consultants of the Veterans' Administration, for other persons providing services in Veterans' Administration facilities to beneficiaries of programs administered by the Veterans' Administration, and for such beneficiaries.

102 STAT. 505

(b) REQUIRED ELEMENTS OF INFORMATION PROGRAM.—In conducting the program under subsection (a), the Administrator shall—

(1) develop, in consultation with the Surgeon General of the United States and the Director of the Centers for Disease Control, publications and other materials containing information on AIDS, including information on the prevention of infection with the human immunodeficiency virus;

(2) provide for periodic dissemination of publications (including the Surgeon General's Report on AIDS) and other materials containing such information;

(3) make publications and other suitable materials containing such information readily available in Veterans' Administration health-care facilities and such other Veterans' Administration facilities as the Administrator considers appropriate; and

(4) disseminate information (including the Surgeon General's Report on AIDS) on the risk of transmission of the human immunodeficiency virus, and information on preventing the transmission of such virus, to Veterans' Administration substance abuse treatment personnel, to each person being furnished treatment by the Veterans' Administration for drug abuse, and to each person receiving care or services from the Veterans' Administration whom the Administrator believes to be at high risk for AIDS.

(c) TRAINING IN AIDS PREVENTION.—The Administrator shall establish and carry out a program that provides for education, training, and other activities (including continuing education and infection control programs) regarding AIDS and the human immunodeficiency virus designed to improve the effectiveness and safety of all health-care personnel and all health-care support personnel involved in the furnishing of care under programs administered by the Veterans' Administration. Education.

SEC. 124. RESTRICTION ON TESTING FOR INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS. 38 USC 4133 note.

(a) GENERAL RULE.—Except as provided in subsection (b), the Administrator may not during any fiscal year conduct a widespread testing program to determine infection of humans with the human immunodeficiency virus unless funds have been appropriated to the Veterans' Administration specifically for such a program during that fiscal year.

(b) VOLUNTARY TESTING.—(1) The Administrator shall provide for a program under which the Veterans' Administration offers each patient to whom the Veterans' Administration is furnishing health care or services and who is described in paragraph (2) the opportunity to be tested to determine whether such patient is infected with the human immunodeficiency virus.

(2) Patients referred to in paragraph (1) are—

Drugs and drug abuse.

(A) patients who are receiving treatment for intravenous drug abuse,

Diseases.

(B) patients who are receiving treatment for a disease associated with the human immunodeficiency virus, and

(C) patients who are otherwise at high risk for infection with such virus.

(3) Subject to the consent requirement in paragraph (4) and unless medically contraindicated, the test shall be administered to each patient requesting to be tested for infection with such virus.

102 STAT. 506

(4) A test may not be conducted under this subsection without the prior informed and separate written consent of the patient tested. The Administrator shall provide pre- and post-test counseling regarding the acquired immune deficiency syndrome and the test to each patient who is administered the test.

PART D—OTHER MATTERS

SEC. 131. DEFINITION OF VETERANS' ADMINISTRATION MEDICAL FACILITIES TO INCLUDE CERTAIN RECREATIONAL FACILITIES.

Section 601(4) is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(C) public or private facilities at which the Administrator provides recreational activities for patients receiving care under section 610 of this title.".

SEC. 132. VETERANS' ADMINISTRATION ASSISTANCE WITH REHABILITATION ACTIVITIES.

(a) IN GENERAL.—Chapter 3 is amended by inserting after section 215 the following new section:

38 USC 216.

"§ 216. Assistance to certain rehabilitation activities

"(a) The Administrator may assist any organization named in or approved under section 3402 of this title in providing recreational activities which would further the rehabilitation of disabled veterans. Such assistance may be provided only if—

"(1) the activities are available to disabled veterans on a national basis; and

"(2) a significant percentage of the individuals participating in the activities are eligible for rehabilitative services under chapter 17 of this title.

"(b) The Administrator may accept from any appropriate source contributions of funds and of other assistance to support the Administrator's provision of assistance for such activities.

"(c)(1) Subject to paragraph (2) of this subsection, the Administrator may authorize the use, for purposes approved by the Administrator in connection with the activity involved, of the seal and other official symbols of the Veterans' Administration and the name 'Veterans' Administration' by—

"(A) any organization which provides an activity described in subsection (a) of this section with assistance from the Administrator; and

"(B) any individual or entity from which the Administrator accepts a significant contribution under subsection (b) of this section or an offer of such a contribution.

"(2) The use of such seal or name or any official symbol of the Veterans' Administration in an advertisement may be authorized by the Administrator under this subsection only if—

"(A) the Administrator has approved the advertisement; and

"(B) the advertisement contains a clear statement that no product, project, or commercial line of endeavor referred to in the advertisement is endorsed by the Veterans' Administration.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 215 the following new item: 102 STAT. 507

"216. Assistance to certain rehabilitation activities.".

SEC. 133. RULES AND REGULATIONS RELATING TO VETERANS' HEALTH CARE.

The text of section 621 is amended to read as follows:

"Rules and regulations prescribed under section 210(c)(1) of this title shall include rules and regulations to promote good conduct on the part of persons who are receiving hospital, nursing home, and domiciliary care and medical services in Veterans' Administration facilities. The Administrator may prescribe in rules and regulations under such section limitations in connection with the furnishing of such care and services during a period of national emergency (other than a period of war or an emergency described in section 5011A of this title).".

SEC. 134. PER DIEM RATES FOR CARE IN STATE HOMES.

(a) INCREASES IN RATES.—Section 641 is amended—

(1) in subsection (a), by striking out clauses (1) through (3) and inserting in lieu thereof the following:

"(1) $8.70 for domiciliary care; and

"(2) $20.35 for nursing home care and hospital care,"; and

(2) by adding at the end the following new subsection:

"(d) Whenever the Administrator makes a determination pursuant to section 620(a)(2)(A) of this title that the cost of care furnished by the Veterans' Administration in a general hospital under the direct jurisdiction of the Administrator has increased, the Administrator may, effective no earlier than the date of such determination, increase the rates paid under subsection (a) of this section by a percentage not greater than the percentage by which the Administrator has determined that such cost of care has increased.".

(b) EFFECTIVE DATES.—(1) The amendment made by subsection (a)(1) shall take effect as of January 1, 1988. 38 USC 641 note.

(2) The amendment made by subsection (a)(2) shall take effect on October 1, 1988.

SEC. 135. MEDICAL RESEARCH.

Section 4101(c)(1) is amended by striking out the parenthetical phrase and inserting in lieu thereof "(including biomedical, mental illness, prosthetic, and other rehabilitative, and health-care-services research and stressing research into spinal-cord injuries and other diseases that lead to paralysis of the lower extremities and research into injuries and illnesses particularly related to service)".

SEC. 136. CONVERSION OF UNDERUSED SPACE TO DOMICILIARY-CARE BEDS. 38 USC 5010 note.

(a) IN GENERAL.—(1) Subject to subsection (b), the Administrator shall, not later than June 1, 1988, in urban areas in which there are significant numbers of homeless veterans, convert underused space located in facilities under the jurisdiction of the Administrator to 500 domiciliary-care beds to be used for the care of veterans in need of domiciliary care, primarily homeless veterans. Urban areas. Homeless persons.

(2) If the Administrator determines that it is impractical to undertake the conversions required in paragraph (1) to the extent required in that paragraph— 102 STAT. 508

(A) because appropriate space for the conversions is not available in sufficient quantity, or

(B) because in areas in which there is sufficient space the numbers of homeless veterans in need of domiciliary care who would likely use the beds are not sufficient to warrant the conversions,

the Administrator shall carry out paragraph (1) only to the extent that the Administrator has not determined that it is impractical to do so.

(b) PROHIBITION AGAINST DIMINUTION OF CERTAIN OTHER CONVERSIONS.—Nothing in this section shall result in the diminution of the conversion of hospital-care beds to nursing-home-care beds by the Veterans' Administration.

(c) FUNDING.—The Administrator shall carry out subsection (a) within the limits of available appropriations.

TITLE II—HEALTH-CARE ADMINISTRATION AND PERSONNEL MATTERS

PART A—ADMINISTRATION

38 USC 4151 note.

SEC. 201. HEALTH CARE QUALITY ASSURANCE ACTIVITIES.

(a) ACTIONS TO IMPROVE QUALITY ASSURANCE ACTIVITIES.—Not later than 60 days after the date of the enactment of this Act, the Administrator shall take actions to improve the operation of health-care quality assurance programs and activities in the Veterans' Administration, including actions to achieve the following purposes:

(1) Upgrading the Office of Quality Assurance within the Department of Medicine and Surgery Central Office and assigning responsibility for risk-management activities (to be carried out with the concurrence of the General Counsel) to it.

(2) Expanding, and assigning higher priority and greater resources to, quality-assurance programs and activities at each Veterans' Administration health-care facility, including implementation of the review (known as "occurrence screening") of patient records for adverse events which are not the natural consequence of the patient's disease, injury, or treatment and the maximum use of the facility's computerized management information system for such activities.

(3) Upgrading and expanding the office of the Medical Inspector in the Department of Medicine and Surgery Central Office, including increasing the number of employees assigned to such office on a full-time basis, so as to ensure that each medical inspection carried out by that office includes at least one such full-time employee and otherwise ensuring such adequate numbers of, and such skills and training on the part of, the employees assigned to that office as are necessary to ensure the independence, objectivity, and accountability of that office.

(4) Upgrading and expanding the activities of the Veterans' Administration's Office of Inspector General in overseeing, monitoring, and evaluating the operations of the Department of Medicine and Surgery's quality-assurance programs and activities and its Medical Inspector office so as to provide the Chief Medical Director, the Administrator, and the Congress with clear and objective assessments of the effectiveness of those programs and operations, including ensuring such numbers of, and such skills and training on the part of, employees assigned to the Office of the Inspector General as are necessary to carry out such oversight, monitoring, and evaluation effectively.

102 STAT. 509

(b) REPORT.—Not later than 75 days after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives, a report describing the actions taken pursuant to subsection (a), including reports of the Chief Medical Director and the Inspector General of the Veterans' Administration on such actions, and any future actions planned (and a timetable therefor) in connection with such actions. The report shall include—

(1) the Administrator's views on (A) the effectiveness of quality assurance and risk management and medical inspection programs and activities in the Department of Medicine and Surgery and of the oversight, monitoring, and evaluation of those programs and activities before the implementation of the actions described in the preceding sentence, and (B) how those actions will improve the effectiveness of these programs and activities; and

(2) a description of actions that have been or will be taken (and the justification for those actions) by the Administrator, the Inspector General, and the Chief Medical Director, as appropriate, to make other improvements in such programs and activities and the oversight, monitoring, and evaluation therefor.

SEC. 202. HOSPITAL COST COLLECTIONS.

Section 629(b)(2) is amended by adding at the end the following new subparagraph:

"(C) A proceeding under subparagraph (B) of this paragraph may not be brought after the end of the six-year period beginning on the last day on which the care or services for which recovery is sought are furnished.".

SEC. 203. TORT CLAIMS.

(a) INAPPLICABILITY OF AN EXCEPTION RELATING TO FEDERAL TORT CLAIMS IN MEDICAL MALPRACTICE AND NEGLIGENCE CASES.—(1) Section 4116 is amended by adding at the end the following new subsection:

"(f) The exception provided in section 2680(h) of title 28 shall not apply to any claim arising out of a negligent or wrongful act or omission of any person described in subsection (a) of this section in furnishing medical care or treatment (including medical care or treatment furnished in the course of a clinical study or investigation) while in the exercise of such person's duties in or for the Department of Medicine and Surgery.".

(2) The amendment made by paragraph (1) shall apply with respect to claims as to which a final judgment has not been rendered as of the date of the enactment of this Act. 38 USC 4116 note.

(b) INCREASED AUTHORITY TO ADJUST TORT CLAIMS ADMINISTRATIVELY.—(1) Subchapter II of chapter 3 is amended by adding at the end the following new section:

"§ 223. Administrative settlement of tort claims 38 USC 223.

"(a) Notwithstanding the limitations contained in section 2672 of title 28, the Administrator may settle any claim for money damages against the United States cognizable under section 1346(b) or 2672 of title 28 or section 4116 of this title to the extent the authority to do so is delegated to the Administrator by the Attorney General. Such delegation may not exceed the authority delegated by the Attorney General to United States attorneys to settle claims for money damages against the United States. 102 STAT. 510

"(b) For purposes of this subsection, the term 'settle', with respect to a claim, means consider, ascertain, adjust, determine, and dispose of the claim, whether by full or partial allowance or by disallowance.".

(2) The table of sections at the beginning of chapter 3 is amended by inserting after the item relating to section 222 the following:

"223. Administrative settlement of tort claims.".

SEC. 204. NONPROFIT RESEARCH CORPORATIONS.

(a) AUTHORITY OF ADMINISTRATOR.—Chapter 73 is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—RESEARCH CORPORATIONS

"§ 4161. Authority to establish; status 38 USC 4161.

"(a) The Administrator may authorize the establishment at any Veterans' Administration medical center of a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research at the medical center. Except as otherwise required in this subchapter or under regulations prescribed by the Administrator, any such corporation, and its directors and employees, shall be required to comply only with those Federal laws, regulations, and

executive orders and directives which apply generally to private nonprofit corporations.

"(b) If by the end of the three-year period beginning on the date of the establishment of a corporation under this subchapter the corporation is not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, the Administrator shall dissolve the corporation.

38 USC 4162.

"§ 4162. Purpose of corporations

"Any corporation established under this subchapter shall be established solely to facilitate research as described in section 4101(c)(1) of this title in conjunction with the applicable Veterans' Administration medical center. Any funds received by the Administrator for the conduct of research at the medical center other than funds appropriated to the Veterans' Administration may be transferred to and administered by the corporation for that purpose.

38 USC 4163.

"§ 4163. Board of directors; executive director

"(a) The Administrator shall provide for the appointment of a board of directors for any corporation established under this subchapter. The board shall include—

"(1) the director of the medical center, the chief of staff of the medical center, and the assistant chief of staff for research of the medical center; and

"(2) subject to subsection (c) of this section, members who are not officers or employees of the Federal Government and who are familiar with issues involving medical and scientific research.

"(b) Each such corporation shall have an executive director who shall be appointed by the board of directors with the concurrence of the Chief Medical Director of the Veterans' Administration. The executive director of a corporation shall be responsible for the operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

"(c) An individual appointed under subsection (a)(2) of this section to the board of directors of a corporation established under this subchapter may not be affiliated with, employed by, or have any other financial relationship with any entity that is a source of funding for research by the Veterans' Administration unless that source of funding is a governmental entity or an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

38 USC 4164.

"§ 4164. General powers

"(a) A corporation established under this subchapter may—

Gifts.
Grants.
Contracts.

"(1) accept gifts and grants from, and enter into contracts with, individuals and public and private entities solely to carry out the purposes of this subchapter; and

"(2) employ such employees as it considers necessary for such purposes and fix the compensation of such employees.

"(b) A corporation established under this subchapter may not spend funds for a research project unless the project is approved in accordance with procedures prescribed by the Chief Medical Director for research carried out with Veterans' Administration funds. Such procedures shall include a peer review process.

38 USC 4165.

"§ 4165. Applicable State law

"Any corporation established under this subchapter shall be established in accordance with the nonprofit corporation laws of the State in which the applicable medical center is located and shall, to the extent not inconsistent with any Federal law, be subject to the laws of such State.

38 USC 4166.

"§ 4166. Accountability and oversight

Records.

"(a)(1)(A) The records of a corporation established under this subchapter shall be available to the Administrator.

"(B) For the purposes of sections 4(a)(1) and 6(a)(1) of the Inspector General Act of 1978, the programs and operations of such a corporation shall be considered to be programs and operations of the Veterans' Administration with respect to which the Inspector General of the Veterans' Administration has responsibilities under such Act.

"(2) Such a corporation shall be considered an agency for the purposes of section 716 of title 31 (relating to availability of information and inspection of records by the Comptroller General).

"(b) Each such corporation shall submit to the Administrator an annual report providing a detailed statement of its operations, activities, and accomplishments during that year. The corporation shall obtain a report of independent auditors concerning the receipts and expenditures of funds by the corporation during that year and shall include that report in the corporation's report to the Administrator for that year. Reports.

"(c) Each member of the board of directors of a corporation established under this subchapter, each employee of such a corporation, and each employee of the Veterans' Administration who is involved in the functions of the corporation during any year— 102 STAT. 512

"(1) shall be subject to Federal laws and regulations applicable to Federal employees with respect to conflicts of interest in the performance of official functions; and

"(2) shall submit to the Administrator an annual statement signed by the director or employee certifying that the director or employee is aware of, and has complied with, such laws and regulations in the same manner as Federal employees are required to.

"(d) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the number and location of corporations established and the amount of the contributions made to each such corporation.

"§ 4167. Report to Congress 38 USC 4167.

"Not later than February 1, 1991, the Administrator shall submit to Congress a report on the experience through the end of fiscal year 1990 under this subchapter. The report shall include such recommendations as the Administrator considers appropriate.

"§ 4168. Expiration of authority 38 USC 4168.

"No corporation may be established under this subchapter after September 30, 1991.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"SUBCHAPTER VI—RESEARCH CORPORATIONS

"4161. Authority to establish; status.
"4162. Purpose of corporations.
"4163. Board of directors; executive director.
"4164. General powers.
"4165. Applicable State law.
"4166. Accountability and oversight.
"4167. Report to Congress.
"4168. Expiration of authority.".

SEC. 205. NURSING HOME REVOLVING FUND.

(a) ESTABLISHMENT OF FUND.—Chapter 81 is amended by inserting after section 5015 the following new section:

"§ 5016. Nursing home revolving fund 38 USC 5016.

"(a)(1) Amounts realized from a transfer pursuant to section 5022(a)(2)(C) of this title shall be administered as a revolving fund and shall be available without fiscal year limitation.

"(2) The revolving fund shall be deposited in a checking account with the Treasurer of the United States.

"(b)(1) The expenditure of funds from the revolving fund may be made only for the construction, alteration, and acquisition (including site acquisition) of nursing home facilities and may be made only as provided for in appropriation Acts.

"(2) For the purpose of section 5004(a)(2) of this title, a bill, resolution, or amendment which provides that funds in the revolving fund may be expended for a project involving a total expenditure of more than $2,000,000 for the construction, alteration, or acquisition (including site acquisition) of a nursing home facility shall be considered to be a bill, resolution, or amendment making an appropriation which may be expended for a major medical facility project.".

102 STAT. 513

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5016. Nursing home revolving fund.".

SEC. 206. STATE HOME CONSTRUCTION GRANTS.

(a) DATE OF LIST OF APPROVED PROJECTS.—Section 5035(b)(4) is amended by striking out "July 1" and inserting in lieu thereof "August 15".

(b) CONDITIONAL APPROVAL OF APPLICATIONS.—Section 5035(b) is amended—

(1) in paragraph (4), by inserting "(including projects that have been conditionally approved under paragraph (6) of this subsection)" after "projects"; and

(2) by adding at the end the following new paragraphs:

"(6)(A) The Administrator may conditionally approve a project under this section, conditionally award a grant for the project, and obligate funds for the grant if the Administrator determines that the application for the grant is sufficiently complete to warrant awarding the grant and that, based on assurances provided by the State submitting the application, the State will complete the application and meet all the requirements referred to in paragraph (1)(A) of this subsection by the date, not later than 90 days after the date of the conditional approval, specified by the Administrator.

"(B) If a State does not complete the application and meet all the requirements referred to in such paragraph by the date specified by the Administrator under subparagraph (A) of this paragraph, the Administrator shall rescind the conditional approval and award under such subparagraph and deobligate the funds previously obligated in connection with the application.

"(7)(A) Subject to subparagraph (B) of this paragraph, the Administrator may increase the amount of any grant awarded to any State for a project under this section by an amount by which the Administrator determines that the estimated cost of the construction or acquisition has increased from the estimated cost on which the Administrator based the determination to award the grant, without regard to the position of such project on the list established under paragraph (4) of this subsection, if the Administrator determines that the grant was awarded before the State entered into a contract for the construction or acquisition provided for in such project.

"(B) A grant may not be increased under subparagraph (A) of this paragraph by more than 10 percent of the amount of the grant initially awarded for such project, and the amount of such grant, as increased, may not exceed 65 percent of the cost of the project.".

PART B—PAY AND OTHER PERSONNEL BENEFITS

SEC. 211. ADDITIONAL PAY AUTHORITIES FOR NURSES TO BE AVAILABLE FOR PHARMACISTS AND OCCUPATIONAL THERAPISTS.

(a) CATEGORY OF APPOINTMENT.—Section 4104 is amended—

(1) in paragraph (2), by striking out "Pharmacists" and all that follows through "therapists" and inserting in lieu thereof "Psychologists (other than those described in paragraph (3) of this section)"; and

(2) in paragraph (3)—

(A) by striking out "and"; and
(B) by inserting ", pharmacists, and occupational therapists" after "nurses".

102 STAT. 514

(b) AUTHORITY FOR PREMIUM PAY.—The second sentence of section 4107(f) is amended—
(1) by striking out "or licensed" and inserting in lieu thereof "licensed"; and
(2) inserting "pharmacists, or occupational therapists," after "nurses,".

SEC. 212. RECRUITMENT AND RETENTION BONUS PAY.

(a) AUTHORITY TO PAY BONUS.—Chapter 73 is amended by inserting after section 4119 the following new section:

"§ 4120. Recruitment and retention bonus pay for nurses and certain other health-care personnel

38 USC 4120.

"(a)(1) In order to recruit and retain registered nurses, the Administrator may enter into agreements under this section. Such an agreement may be entered into with any registered nurse who is employed at, or who agrees to accept employment with the Veterans' Administration at, a Veterans' Administration health-care facility that is designated by the Administrator as a health-care facility with a significant shortage in registered nurses in any clinical service.

Contracts.

"(2) A registered nurse entering into an agreement under this section shall agree to remain employed by the Veterans' Administration as a registered nurse for a period of time to be specified in the agreement and to serve during that period in a specific health-care facility that is designated by the Administrator as a health-care facility with a significant shortage of registered nurses in that nurse's clinical service. Such period may not be less than two years or more than four years. Such employment during such period may be on a full-time basis or a part-time basis, as specified in the agreement. Part-time employment as specified in such an agreement may not be less than half-time.

"(b)(1) The Administrator shall pay to any nurse entering into an agreement under this section bonus pay in an amount specified in the agreement. The amount of such bonus pay may not exceed—
"(A) $2,000 per year, in the case of an agreement for two years,
"(B) $3,000 per year, in the case of an agreement for three years, and
"(C) $4,000 per year, in the case of an agreement for four years.

"(2) In the case of an agreement for employment on less than a full-time basis, the amount of bonus pay shall be pro rated accordingly.

"(c)(1) Except as provided in paragraph (2) of this subsection, a bonus under this section shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

"(2)(A) The Administrator may make a payment in an amount not in excess of 25 percent of the total bonus in a lump sum at the time that the period of obligated service commences under the agreement.

"(B) If the Administrator makes a lump-sum payment under subparagraph (A) of this paragraph, the remaining balance of the bonus shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

102 STAT. 515

"(d)(1) A bonus paid to any individual under this section shall be in addition to any pay or allowance to which the individual is entitled.

"(2) The amount of a bonus paid under this section shall not be considered to be basic pay for the purposes of sections 5551, 5552, and 5595 of title 5, chapters 81, 83, 84, and 87 of such title, or any

other provision of law creating an entitlement to benefits based on basic pay.

"(e) At least once each year the Administrator, upon the recommendation of the Chief Medical Director, shall determine the specific health-care facilities and clinical services, if any, as to which there are significant problems with respect to the recruitment and retention of registered nurses. Upon making any such determination, the Administrator shall promptly notify the Committees on Veterans' Affairs of the Senate and the House of Representatives of the determination and the basis for the determination.

Contracts.

"(f) The Administrator may enter into agreements under this section with individuals in a health profession other than nursing (and other than a health profession for which special pay may be provided under section 4118 of this title) if the Administrator determines that there are significant problems with respect to recruitment and retention of employees in that health profession. The Administrator's authority to enter into any such agreement under this section, and such agreement, shall be subject to the provisions of this section in the same manner as are the authority to enter into an agreement under this section with a registered nurse and such an agreement.

"(g)(1) Except as provided in paragraph (2) of this subsection, an individual who voluntarily, or because of misconduct, fails to perform services as assigned by the Administrator for the period of obligated service provided in an agreement under this section shall refund to the United States the amount by which the total amount of bonus payments received by that individual under this section exceeds the amount that such individual would have received under an agreement under this section to serve for the period of obligated service actually served (as determined at the time the agreement is entered into). If the period actually served is less than two years, the amount to be refunded is the entire amount paid to the individual.

"(2) An individual shall not be required to make a refund under paragraph (1) of this subsection if the Administrator determines, in accordance with regulations prescribed under subsection (h) of this section, that the individual's failure to perform services for the period of obligated service is due to circumstances (not including separation for cause) beyond the control of the individual.

"(3) An obligation to refund any portion of a bonus payment under this subsection is, for all purposes, a debt owed to the United States.

"(4) The provisions of this subsection and the specific amounts that the individual could be required to refund shall be disclosed to the individual at the time the agreement is entered into and shall be clearly set forth in the contract.

Regulations.

"(h) The Administrator shall prescribe regulations to carry out this section.".

102 STAT. 516

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4119 the following:

"4210. Recruitment and retention bonus pay for nurses and certain other health-care personnel.".

(b) CONFORMING AMENDMENT.—Section 4107(d) is amended by striking out "section 4118" and inserting in lieu thereof "sections 4118 and 4120".

SEC. 213. ON-CALL PAY.

Section 4107 is amended by adding at the end the following new subsection:

"(j)(1) The Administrator may pay an employee to whom this subsection applies pay at the rate provided in subsection (e)(8) of this section except for such time as the employee may be called back to work.

"(2) This subsection applies to an employee who meets each of the following criteria:

"CHAPTER 76—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM

"SUBCHAPTER I—GENERAL

"Sec.
"4301. Establishment of program; purpose.
"4302. Eligibility.
"4303. Application and acceptance.
"4304. Terms of agreement.

"SUBCHAPTER II—SCHOLARSHIP PROGRAM

"4311. Authority for program.
"4312. Eligibility; application; agreement.
"4313. Scholarship.
"4314. Part-time students.
"4315. Status of participants.
"4316. Obligated service.
"4317. Breach of agreement: liability.
"4318. Expiration of program.

"SUBCHAPTER III—TUITION REIMBURSEMENT PROGRAM

"4321. Authority for program.
"4322. Eligibility; application; agreement.
"4323. Obligated service.
"4324. Breach of agreement: liability.
"4325. Allocation and distribution of funding.

"SUBCHAPTER IV—ADMINISTRATIVE MATTERS

"4331. Periodic adjustments in amount of assistance.
"4332. Annual report.
"4333. Regulations.
"4334. Breach of agreement; waiver of liability.
"4335. Service in other agencies.
"4336. Exemption of educational assistance payments from taxation.

102 STAT. 518

"SUBCHAPTER I—GENERAL

38 USC 4301.

"§ 4301. Establishment of program; purpose

"(a) There is hereby established a program to be known as the Veterans' Administration Health Professionals Educational Assistance Program (hereinafter in this chapter referred to as the 'Educational Assistance Program'). The program consists of—

"(1) the scholarship program provided for in subchapter II of this chapter, and

"(2) the tuition reimbursement program provided for in subchapter III of this chapter.

"(b) The purpose of the Educational Assistance Program is to assist in providing an adequate supply of trained health-care personnel for the Veterans' Administration and the Nation.

38 USC 4302.

"§ 4302. Eligibility

"(a)(1) To be eligible to participate in the Educational Assistance Program, an individual must be accepted for enrollment or be currently enrolled as a student at a qualifying educational institution in a course of education or training that is approved by the Administrator and that leads toward completion of a degree in a field of education or training for which a scholarship may be awarded under subchapter II of this chapter or for which tuition reimbursement may be provided under subchapter III of this chapter.

"(2) A qualifying educational institution for purposes of this section is an educational institution that is in a State and that (as determined by the Administrator) is an accredited institution.

"(b) An individual is not eligible to apply to participate in the Educational Assistance Program if the individual is obligated under any other Federal program to perform service after completion of the course of education or training of such individual referred to in subsection (a) of this section.

"§ 4303. Application and acceptance

38 USC 4303.

Contracts.

"(a) To apply to participate in the Educational Assistance Program, an individual shall submit to the Administrator an application for such participation together with an agreement described in section 4304 of this title under which the participant agrees to serve a period of obligated service in the Department of Medicine and Surgery as provided in the agreement in return for payment of educational assistance as provided in the agreement.

"(b)(1) An individual becomes a participant in the Educational Assistance Program upon the Administrator's approval of the individual's application and the Administrator's acceptance of the agreement.

"(2) Upon the Administrator's approval of an individual's participation in the program, the Administrator shall promptly notify the individual of that approval. Such notice shall be in writing.

"(c)(1) In distributing application forms and agreement forms to individuals desiring to participate in the Educational Assistance Program, the Administrator shall include with such forms the following:

"(A) A fair summary of the rights and liabilities of an individual whose application is approved (and whose agreement is accepted) by the Administrator, including a clear explanation of the damages to which the United States is entitled if the individual breaches the agreement.

102 STAT. 519

"(B) A full description of the terms and conditions that apply to participation in the Educational Assistance Program and service in the Department of Medicine and Surgery.

"(2) The Administrator shall make such application forms and other information available to individuals desiring to participate in the Educational Assistance Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

"(d) In selecting applicants for acceptance in the Educational Assistance Program, the Administrator shall give priority to the applications of individuals who have previously received educational assistance under the program and have not completed the course of education or training undertaken under such program.

"§ 4304. Terms of agreement

38 USC 4304.

"An agreement between the Administrator and a participant in the Educational Assistance Program shall be in writing, shall be signed by the participant, and shall include the following provisions:

"(1) The Administrator's agreement—

"(A) to provide the participant with educational assistance as authorized in subchapter II or III of this chapter and specified in the agreement; and

"(B) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title).

"(2) The participant's agreement—

"(A) to accept such educational assistance;

"(B) to maintain enrollment and attendance in the course of training until completed;

"(C) while enrolled in such course, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator); and

"(D) after completion of the course of training, to serve as a full-time employee in the Department of Medicine and Surgery as specified in the agreement in accordance with subchapter II or III of this chapter.

"(3) A provision that any financial obligation of the United States arising out of an agreement entered into under this

chapter, and any obligation of the participant which is conditioned on such agreement, is contingent upon funds being appropriated for educational assistance under this chapter.

"(4) A statement of the damages to which the United States is entitled under this chapter for the participant's breach of the agreement.

"(5) Such other terms as are required to be included in the agreement under subchapter II or III of this chapter or as the Administrator may require consistent with the provisions of this chapter.

102 STAT. 520

"SUBCHAPTER II—SCHOLARSHIP PROGRAM

38 USC 4311.

"§ 4311. Authority for program

"As part of the Educational Assistance Program, the Administrator shall carry out a scholarship program under this subchapter. The program shall be known as the Veterans' Administration Health Professional Scholarship Program (hereinafter in this chapter referred to as the "Scholarship Program").

38 USC 4312.

"§ 4312. Eligibility; application; agreement

"(a)(1) Except as provided in paragraph (2) of this subsection, an individual must be accepted for enrollment or be enrolled (as described in section 4302 of this title) as a full-time student to be eligible to participate in the Scholarship Program.

"(2) An individual who is an eligible Veterans' Administration employee may be accepted as a participant if accepted for enrollment or enrolled (as described in section 4302 of this title) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a "part-time student".)

"(3) For the purposes of paragraph (2) of this subsection, an eligible Veterans' Administration employee is a full-time Veterans' Administration employee who is permanently assigned to a Veterans' Administration health-care facility on the date on which the individual submits the application referred to in section 4303 of this title and on the date on which the individual becomes a participant in the Scholarship Program.

"(b)(1) A scholarship may be awarded under this subchapter only in a qualifying field of education or training.

"(2) A qualifying field of education or training for purposes of this subchapter is education or training leading to employment (under section 4104 of this title) as any of the following:

"(A) A physician, dentist, podiatrist, optometrist, nurse, physician assistant, or expanded function dental auxiliary.

"(B) A psychologist described in section 4104(3) of this title or a certified or registered respiratory therapist, licensed physical therapist, or licensed practical or vocational nurse.

"(3) The Administrator may designate additional fields of education or training as qualifying fields of education or training if the education or training leads to employment in a position which would qualify the individual for increased basic pay under section 4107(g)(1)(B) of this title.

"(4) Before awarding the initial scholarship in a course of education or training other than medicine or nursing, the Administrator shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of education or training. The notice shall include a statement of the reasons why the award of scholarships in that course of education or training is necessary to assist in providing the Veterans' Administration with an adequate supply of personnel in the health profession concerned. Any such notice shall be given not less than 60 days before the first such scholarship is awarded.

"(5) In selecting applicants for the Scholarship Program, the Administrator shall give priority to the applications of individuals who will be entering their final year in a course of training. 102 STAT. 521

"(c)(1) An agreement between the Administrator and a participant in the Scholarship Program shall (in addition to the requirements set forth in section 4304 of this title) include the following:

"(A) The Administrator's agreement to provide the participant with a scholarship under this subchapter for a specified number (from one to four) of school years during which the participant is pursuing a course of education or training described in section 4302 of this title.

"(B) The participant's agreement to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the 'period of obligated service') of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the Scholarship Program.

"(2) In a case in which an extension is granted under section 4314(3) of this title, the number of years for which a scholarship may be provided under this subchapter shall be the number of school years provided for as a result of the extension.

"(3) In the case of a participant who is a part-time student—

"(A) the period of obligated service shall be reduced in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event to less than one year; and

"(B) the agreement shall include the participant's agreement to maintain employment, while enrolled in such course of education or training, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

"(4) If a participant's period of obligated service is deferred under section 4316(b)(3)(A)(i) of this title, the agreement terms under paragraph (1) of this subsection shall provide for the participant to serve any additional period of obligated service that is prescribed by the Administrator under section 4316(b)(4)(B) of this title.

"§ 4313. Scholarship

38 USC 4313.

"(a) A scholarship provided to a participant in the Scholarship Program for a school year under the Scholarship Program shall consist of payment of the tuition of the participant for that school year, payment of other reasonable educational expenses (including fees, books, and laboratory expenses) for that school year, and a stipend determined under subsection (b) of this section.

"(b) A stipend under this section for a school year shall be payment to the participant of not in excess of $485 per month (adjusted in accordance with section 4331 of this title) for each of the 12 consecutive months beginning with the first month of the school year, except that a stipend may not be paid to a participant who is a full-time employee of the Veterans' Administration. The stipend of a participant who is a part-time student shall be adjusted as provided in sections 4314(1) and 4314(2) of this title.

"(c) The Administrator may arrange with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in subsection (a) of this section. Such payments may be made without regard to subsections (a) and (b) of section 3324 of title 31.

102 STAT. 522

"§ 4314. Part-time students

38 USC 4314.

"In the case of a participant who is a part-time student—

"(1) the maximum amount of the stipend payable to the participant shall be reduced in accordance with the proportion that the number of credit hours carried by such participant

bears to the number of credit hours required to be carried by a full-time student in the course of education or training being pursued by the participant;

"(2) a stipend may not be paid for any month during which the participant is not actually attending the course of training in which the participant is enrolled; and

"(3) the Administrator may extend the period for which a scholarship may be awarded to the participant to a maximum of six school years if the Administrator determines that the extension would be in the best interest of the United States.

38 USC 4315.

"§ 4315. Status of participants

"Participants in the Scholarship Program shall not by reason of their participation in such program (1) be considered to be employees of the Federal Government, or (2) be counted against any personnel ceiling affecting the Department of Medicine and Surgery.

38 USC 4316.

"§ 4316. Obligated service

"(a) Each participant in the Scholarship Program shall provide service as a full-time employee of the Veterans' Administration for the period of obligated service provided in the agreement of the participant entered into under section 4303 of this title. Such service shall be provided in the full-time clinical practice of such participant's profession or in another health-care position in an assignment or location determined by the Administrator.

"(b)(1) Not later than 60 days before the participant's service commencement date, the Administrator shall notify the participant of that service commencement date. That date is the date for the beginning of the participant's period of obligated service.

"(2) As soon as possible after the participant's service commencement date, the Administrator shall--

"(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

"(B) in the case of a participant who is an employee in the Department of Medicine and Surgery but is not serving in a position for which such participant's course of education or training prepared such participant, assign such participant to such a position.

"(3)(A)(i) In the case of a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the participant's service commencement date is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State. However, the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

102 STAT. 523

"(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

"(B) In the case of a participant receiving a degree from a school of nursing, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date upon which the participant becomes licensed as a registered nurse in a State.

"(C) In the case of a participant not covered by subparagraph (A) or (B) of this paragraph, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date the participant meets any applicable licensure or certification requirements.

"(4) A participant whose period of obligated service is deferred under paragraph (3)(A) of this subsection shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108(c)(1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veterans' Administration health-care facility. Such a participant may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

"(A) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

"(B) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necessary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

"(5) The Administrator shall by regulation prescribe the service commencement date for participants who were part-time students. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection. Regulations.

"(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

"(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (b) of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

"(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

102 STAT. 524

"(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

"(3) For the purposes of this section, the term 'course completion date' means the date on which a participant in the Scholarship Program completes such participant's course of education or training under the program.

"§ 4317. Breach of agreement: liability 38 USC 4317.

"(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the agreement entered into under section 4303 of this title shall be liable to the United States for liquidated damages in the amount of $1,500. Such liability is in addition to any period of obligated service or other obligation or liability under the agreement.

"(b) A participant in the Scholarship Program shall be liable to the United States for the amount which has been paid to or on

behalf of the participant under the agreement if any of the following occurs:

"(1) The participant fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (as determined by the educational institution under regulations prescribed by the Administrator).

"(2) The participant is dismissed from such educational institution for disciplinary reasons.

"(3) The participant voluntarily terminates the course of training in such educational institution before the completion of such course of training.

"(4) The participant fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become licensed as a registered nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Administrator.

"(5) In the case of a participant who is a part-time student, the participant fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

Liability under this subsection is in lieu of any service obligation arising under the participant's agreement.

"(c)(1) If a participant in the Scholarship Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

102 STAT. 525

$$A = 3\,\Phi\left(\frac{t-s}{t}\right)$$

In such formula:

"(A) 'A' is the amount the United States is entitled to recover.

"(B) 'Φ' is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

"(C) 't' is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4316(b)(4) of this title.

"(D) 's' is the number of months of such period served by the participant in accordance with section 4313 of this title.

"(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

38 USC 4318.

"§ 4318. Expiration of program

"The Administrator may not furnish scholarships to new participants in the Scholarship Program after September 30, 1992.

"SUBCHAPTER III—TUITION REIMBURSEMENT PROGRAM

38 USC 4321.

"§ 4321. Authority for program

"As part of the Educational Assistance Program, the Administrator shall carry out a tuition reimbursement program under this subchapter. The program shall be known as the Veterans' Adminis-

tration Nurse Education Tuition Reimbursement Program (hereinafter in this chapter referred to as the "Tuition Reimbursement Program").

"§ 4322. Eligibility; application; agreement

38 USC 4322.

"(a) To be eligible to participate in the Tuition Reimbursement Program, an individual must be a full-time employee in the Veterans' Administration permanently assigned to a Veterans' Administration health-care facility and must be enrolled in a course of training offered by an institution approved by the Administrator leading toward completion of (1) an associate or higher degree in nursing, or (2) a masters degree or doctoral degree in nursing.

"(b) In selecting applicants for acceptance in the Tuition Reimbursement Program, the Administrator (in addition to according priorities as set forth in section 4303(d) of this title) shall give special consideration and emphasis to individuals pursuing a course of study which will expedite an increase in the number of registered nurses employed by the Veterans' Administration. The Administrator shall then give priority, in the following order, to—

"(1) individuals who have been employed as full-time employees in the Nursing Service in the Department of Medicine and Surgery; and

"(2) individuals who have previously received tuition reimbursement under the Tuition Reimbursement Program.

102 STAT. 526

"(c) An agreement between the Administrator and a participant in the Tuition Reimbursement Program shall (in addition to the requirements set forth in section 4304 of this title) contain the following:

"(1) The Administrator's agreement to provide the participant with tuition reimbursement following successful completion (as determined, pursuant to regulations prescribed by the Administrator, by the educational institution involved) of (A) a course or courses required for the course of study described in subsection (a) of this section, or (B) a course or courses taken as necessary prerequisites for degree program enrollment if a letter regarding the potential enrollment of the participant from an appropriate official of the institution involved includes a statement specifying such prerequisites.

"(2) The participant's agreement—

"(A) to maintain employment, while enrolled in the course of training being pursued by such participant, as a full-time Veterans' Administration employee in the Department of Medicine and Surgery permanently assigned to a Veterans' Administration health-care facility; and

"(B) to continue to serve as a full-time employee in such Department for one year (hereinafter in this subchapter referred to as the 'period of obligated service') after completion of the course for which the participant received tuition reimbursement.

"(d) Tuition reimbursement provided to a participant in the Tuition Reimbursement Program may not exceed $2,000 per year adjusted in accordance with section 4331 of this title).

"(e) The Administrator may arrange with an educational institution pursuant to which such an institution would provide a course or courses at a Veterans' Administration health-care facility to participants in the Tuition Reimbursement Program. Under such an arrangement, the Administrator may agree to pay to the institution an amount not in excess of an amount determined by multiplying the number of participants in such a course by the amount of tuition reimbursement each participant would receive for enrolling and successfully completing such course.

"§ 4323. Obligated service

38 USC 4322.

"(a) Each participant in the Tuition Reimbursement Program shall provide service in the full-time clinical practice of such participant's profession as a full-time employee of the Veterans' Adminis-

tration for the period of obligated service provided in the agreement of such participant entered into under section 4303 of this title.

"(b) A participant who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery shall be considered to have begun serving such participant's period of obligated service on the course completion date.

"(c) Except in the case of a participant whose tuition was paid pursuant to section 4322(f) of this title, if a participant in the Tuition Reimbursement Program fails to successfully complete a course, no reimbursement will be provided and no period of obligated service will be incurred.

"(d) In the case of a participant whose tuition was paid pursuant to section 4322(f) of this title and who fails to complete the course involved, the period of obligation shall be of the same duration as it
102 STAT. 527 would have been if the participant had successfully completed the course and the course completion date shall be considered to be the date on which the participant's failure becomes an established fact.

"(e) For the purposes of this section, the term 'course completion date' means the date on which a participant in the Tuition Reimbursement Program completes such participant's course of training under the program.

38 USC 4324. **"§ 4324. Breach of agreement: liability**

"(a) A participant in the Tuition Reimbursement Program who fails to maintain employment as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility—

"(1) may not be provided reimbursement for tuition for the course or courses in which the participant is enrolled; and

"(2) in lieu of any service obligation arising from completion of a course or courses in a previous semester or quarter, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement.

"(b)(1) If a participant in the Tuition Reimbursement Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A = 3\Phi\left(\frac{t-s}{t}\right)$$

In such formula:

"(A) 'A' is the amount the United States is entitled to recover.

"(B) 'Φ' is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

"(C) 't' is the total number of months in the participant's period of obligated service.

"(D) 's' is the number of months of such period served by the participant in accordance with section 4323 of this title.

"(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

38 USC 4325. **"§ 4325. Allocation and distribution of funding**

"In determining the amount of funding to allocate to Veterans' Administration health-care facilities for any fiscal year in connection with the Tuition Reimbursement Program, the Administrator shall take into account (1) the personnel ceiling for that fiscal year

for nursing personnel, and (2) the recruitment and retention needs of such facilities, as determined by the Administrator.

102 STAT. 528

"SUBCHAPTER IV—ADMINISTRATIVE MATTERS

"§ 4331. Periodic adjustments in amount of assistance

38 USC 4331.

"(a)(1) Whenever there is a general Federal pay increase, the Administrator shall increase the maximum monthly stipend amount and the maximum tuition reimbursement amount. Any such increase shall take effect with respect to any school year that ends in the fiscal year in which the pay increase takes effect.

"(2) The amount of any increase under paragraph (1) of this subsection is the previous maximum amount under that paragraph multiplied by the overall percentage of the adjustment in the rates of pay under the General Schedule made under the general Federal pay increase. Such amount shall be rounded to the next lower multiple of $1.

"(b) For purposes of this section:

"(1) The term 'maximum monthly stipend amount' means the maximum monthly stipend that may be paid to a participant in the Scholarship Program specified in section 4313(b) of this title and as previously adjusted (if at all) in accordance with this subsection.

"(2) The term 'maximum tuition reimbursement amount' means the maximum amount of tuition reimbursement provided to a participant in the Tuition Reimbursement Program specified in section 4322(e) of this title and as previously adjusted (if at all) in accordance with this subsection.

"(3) The term 'general Federal pay increase' means an adjustment (if an increase) in the rates of pay under the General Schedule under subchapter III of chapter 51 of title 5.

"§ 4332. Annual report

38 USC 4332.

Not later than March 1 of each year, the Administrator shall submit to Congress a report on the Educational Assistance Program. Each such report shall include the following information:

"(1) The number of students receiving educational assistance under the Educational Assistance Program, showing the numbers of students receiving assistance under the Scholarship Program and the Tuition Reimbursement Program separately, and the number of students enrolled in each type of health profession training under each program.

"(2) The education institutions providing such training to students in each program.

"(3) The number of applications filed under each program, by health profession category, during the school year beginning in such year and the total number of such applications so filed for all years in which the Educational Assistance Program (or predecessor program) has been in existence.

"(4) The average amounts of educational assistance provided per participant in the Scholarship Program and per participant in the Tuition Reimbursement Program.

"(5) The amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

"(6) The number of scholarships accepted, by health profession category, during the school year beginning in such year and the number, by health profession category, which were offered and not accepted.

102 STAT. 529

"(7) The number of participants who complete a course or course of training in each program each year and for all years that such program (or predecessor program) has been in existence.

38 USC 4333.

"§ 4333. Regulations

"The Administrator shall prescribe regulations to carry out the Educational Assistance Program.

38 USC 4334.

"§ 4334. Breach of agreement; waiver of liability

"(a) An obligation under the Educational Assistance Program (or an agreement under the program) of a participant in the Educational Assistance Program for performance of services or payment of damages is canceled upon the death of the participant.

Regulations.

"(b) The Administrator shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under the Educational Assistance Program (or an agreement under the program) whenever noncompliance by the participant is due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance is in the best interest of the United States.

"(c) An obligation of a participant under the Educational Assistance Program (or an agreement thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date the payment of such damages is due.

38 USC 4335.

"§ 4335. Service in other agencies

"(a) The Administrator, with the consent of the participant or individual involved and the consent of the head of the department or agency involved, may permit—

"(1) a period of obligated service required under this chapter to be performed in the Department of Medicine and Surgery to be performed in another Federal department or agency or in the Armed Forces in lieu of performance of such service in the Department of Medicine and Surgery; and

"(2) a period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel educational assistance program to be performed in the Department of Medicine and Surgery.

"(b) This section shall be carried out in cooperation with the heads of other appropriate departments and agencies.

38 USC 4336.

"§ 4336. Exemption of educational assistance payments from taxation

"Notwithstanding any other law, any payment to, or on behalf of a participant in the Educational Assistance Program, for tuition, education expenses, or a stipend under this chapter shall be exempt from taxation.".

38 USC 4141 note.

(c) SAVINGS PROVISION.—The provisions of subchapter IV of chapter 73 of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, shall remain in effect with respect to scholarships awarded under that subchapter.

102 STAT. 530

38 USC 4331 note.

(d) TRANSITION.—Section 4331 of title 38, United States Code, as added by subsection (b), shall not apply with respect to a school year ending during fiscal year 1988.

(e) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 73 is amended by striking out the items relating to subchapter IV and sections 4141 through 4146.

(2) The tables of chapters before part I and at the beginning of part V are each amended by inserting after the item relating to chapter 75 the following new item:

"76. Health Professionals Educational Assistance Program ..... 4301".

SEC. 217. PAY SCALES AND AWARDS FOR DEPARTMENT OF MEDICINE AND SURGERY EMPLOYEES.

(a) SECTION 4103 SCHEDULE.—Subsection (a) of section 4107 is amended to read as follows:

"(a) The annual rates or ranges of rates of basic pay for positions provided in section 4103 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law.".

(b) SECTION 4104(1) POSITIONS.—Subsection (b)(1) of section 4107 is amended to read as follows:

"(b)(1) The grades and annual ranges of rates of basic pay for positions provided for in paragraph (1) of section 4104 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law:

"PHYSICIAN AND DENTIST SCHEDULE

"Director grade.
"Executive grade.
"Chief grade.
"Senior grade.
"Intermediate grade.
"Full grade.
"Associate grade.

"NURSE SCHEDULE

"Director grade.
"Assistant Director grade.
"Chief grade.
"Senior grade.
"Intermediate grade.
"Full grade.
"Associate grade.
"Junior grade.

"CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

"Chief grade.
"Senior grade.
"Intermediate grade.
"Full grade.
"Associate grade.".

(c) AWARDS FOR CAREER APPOINTEES.—Subsection (c)(3) of such section is amended by inserting "and any person appointed under section 4103 of this title who is not eligible for special pay under section 4118 of this title" after "applies".

PART C—PERSONNEL ADMINISTRATION

SEC. 221. DISCIPLINARY MATTERS AS TO CERTAIN APPOINTEES.

Section 4106(g) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of this title or other law, all matters relating to adverse actions, disciplinary actions, and grievance procedures involving individuals appointed to such positions (including similar actions and procedures involving an employee in a probationary status) shall be resolved under the provisions of title 5 as though such individuals had been appointed under such title.".

SEC. 222. PERSONNEL CEILINGS FOR NONCAREER RESEARCH PERSONNEL.

(a) EXCLUSION FROM PERSONNEL CEILINGS.—Section 5010(a) is amended by adding at the end the following new paragraph:

"(6)(A) Temporary research personnel of the Department of Medicine and Surgery shall be excluded from any ceiling on full-time equivalent employees of the Veterans' Administration or any other personnel ceiling otherwise applicable to employees of the Veterans' Administration.

"(B) For purposes of subparagraph (A) of this paragraph, the term 'temporary research personnel' means personnel who are employed in the Department of Medicine and Surgery in other than a career appointment for work on a research activity and who are not paid by the Veterans' Administration or are paid from funds appropriated to the Veterans' Administration to support such activity.".

38 USC 5010 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fiscal years after fiscal year 1987.

SEC. 223. AUTHORITY TO WAIVE LICENSURE AND INTERNSHIP REQUIREMENTS FOR CERTAIN HEALTH-CARE PERSONNEL.

Subsection (d) of section 4114 is amended to read as follows:

"(d)(1) Subject to paragraph (2) of this subsection, the Chief Medical Director may waive for the purpose of the appointment of an individual under this section the requirements set forth in section 4105(a) of this title—

"(A) that a physician, dentist, psychologist, optometrist, registered nurse, practical or vocational nurse, or physical therapist be licensed or certified, as appropriate;

"(B) that the licensure or certification of such an individual be in a State; and

"(C) that a psychologist have completed an internship.

"(2) The waivers authorized in paragraph (1) of this subsection may be granted—

"(A) in the case of clauses (A) and (C) of such paragraph, if the individual (i) will be employed to conduct research or serve in an academic position, and (ii) will have no responsibility for furnishing direct patient care services; and

"(B) in the case of clause (B) of such paragraph, if the individual will be employed to serve in a country other than the United States and the individual's licensure or registration is in the country in which the individual is to serve.".

102 STAT. 532

SEC. 224. NURSE REPRESENTATION ON POLICYMAKING COMMITTEES.

(a) INCLUSION OF FACILITY CHIEF OF NURSING.—Section 4112 is amended by adding at the end the following new subsection:

"(c) The Administrator shall require that the Chief of the Nursing Service (or the designee of the Chief) at each Veterans' Administration health-care facility be included in the membership of each policymaking committee at that facility. Such committees include (1) committees relating to matters such as budget, education, position management, clinical executive issues, planning, and resource allocation, and (2) the dean's committee or other advisory committee established under subsection (b) of this section.".

(b) TECHNICAL AMENDMENT.—Subsection (b) of such section is amended in the first sentence by striking out "deans committee" and inserting in lieu thereof "dean's committee".

PART D—REPORTS

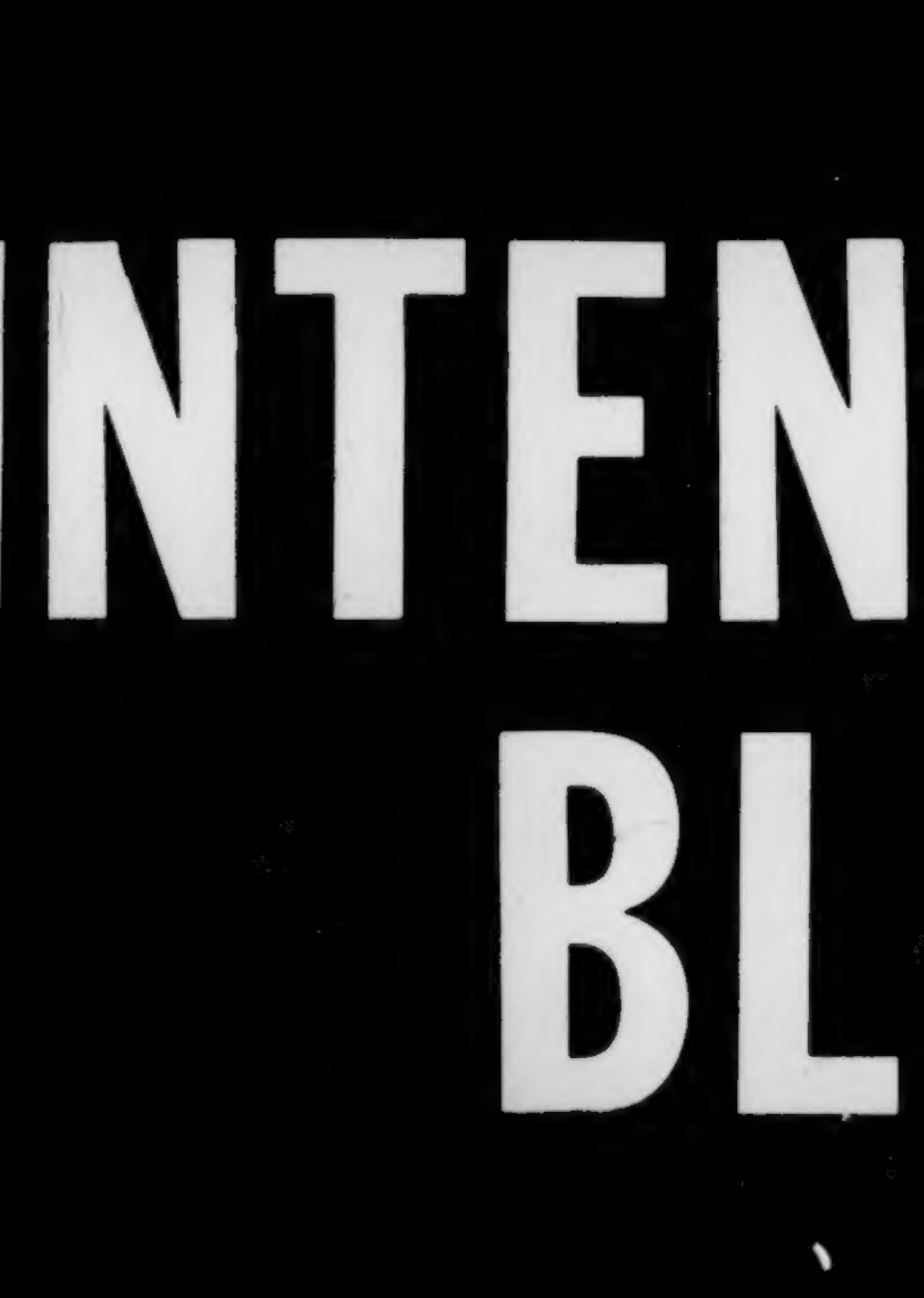
38 USC 4104 note.

SEC. 231. STUDY OF PAY AND OTHER PERSONNEL MANAGEMENT PRACTICES.

(a) IN GENERAL.—The Administrator shall conduct a study in order to determine—

(1) the effects of the pay and other personnel management practices of the Department of Medicine and Surgery of the Veterans' Administration on the ability of the Veterans' Administration to recruit and retain categories of employees (A) who are qualified to provide direct patient-care services, or services that are incident to direct patient-care services, in Veterans' Administration health-care facilities, and (B) as to which problems of recruitment and retention have arisen, and

(2) the effects that flexible employment benefits programs would have on the recruitment and retention of such employees.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(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) Information, for each academic year from 1980–1981 through 1987–1988, on the number of affiliated institutions, shown by type of institution and type of training, that—

(A) have a program through which students or trainees receive education and training in geriatrics through regular rotation through Veterans' Administration medical centers, nursing homes, domiciliary facilities, or other units providing extended care to veterans; or

(B) have a formal program providing education and training in geriatrics; or

(C) have both such programs.

(2) Information on the number of affiliated institutions (shown by type of institution) that are planning to establish programs as described in paragraph (1), together with a timetable for such actions.

102 STAT. 534

(3) Estimates of the costs, both to the Veterans' Administration and to the affiliated institutions, of the programs described in paragraphs (1) and (2).

(4) Estimates of the number of Veterans' Administration patients receiving care or who will receive care from the students or trainees participating in programs described in paragraphs (1)(A) and (2).

(5) A description of the role of the Veterans' Administration in encouraging the establishment and continuation of the programs described in paragraph (1).

(6) The views of the Administrator on the feasibility and desirability of requiring, as a condition of the Veterans' Administration's entering into or continuing an affiliation agreement with a health-care professional training institution, the establishment with such institution of the appropriate type of arrangements described in clause (C)(i) or (C)(ii) of section 4101(f)(1) of title 38, United States Code.

(c) DEFINITION.—For purposes of this section, the term "affiliated institutions" means medical and other health-professional training schools affiliated with the Veterans' Administration.

TITLE III—VETERANS' BENEFITS

PART A—BENEFITS BASED ON SERVICE-CONNECTED DISABILITIES

SEC. 301. SPECIALLY ADAPTED HOUSING ASSISTANCE.

Section 802 is amended—

(1) in subsection (a), by striking out "$35,500" and inserting in lieu thereof "$38,000"; and

(2) in subsection (b), by striking out "$6,000" and inserting in lieu thereof "$6,500".

SEC. 302. AUTOMOBILE ASSISTANCE ALLOWANCE.

Section 1902(a) is amended by striking out "$5,000" and inserting in lieu thereof "$5,500".

SEC. 303. BURIAL BENEFIT FOR SERVICE-CONNECTED DEATHS.

Section 907 is amended by striking out "$1,100" and inserting in lieu thereof "$1,500".

38 USC 802 note.

SEC. 304. EFFECTIVE DATE.

The amendments made by sections 301, 302, and 303 shall take effect on April 1, 1988.

PART B—COMPENSATION-RELATED PROVISIONS

SEC. 311. DEFINITION OF FORMER PRISONER OF WAR.

Section 101(32)(B) is amended by striking out "during a period other than a period of war in which such person was held".

SEC. 312. PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN DISABILITIES FOR FORMER PRISONERS OF WAR.

Section 312(b) is amended—

(1) by striking out "or" at the end of clause (11); and

(2) by inserting after clause (12) the following new clauses: 102 STAT. 535

"(13) peripheral neuropathy except where directly related to infectious causes,

"(14) irritable bowel syndrome, or

"(15) peptic ulcer disease,".

SEC. 313. PRESUMPTION OF SERVICE CONNECTION FOR LUPUS.

Section 301(3) is amended by inserting below "Leukemia" the following: "Lupus erythematosus, systemic".

SEC. 314. REINSTATED ENTITLEMENT FOR CERTAIN SURVIVORS.

Section 156(a)(1) of Public Law 97-377 (96 Stat. 1830, 1920) is amended— 38 USC 402 note.

(1) in subparagraph (B), by inserting "or who meets the requirements for entitlement to the equivalent of such benefit provided under section 412(a) of title 38, United States Code" after "month"; and

(2) in subparagraph (C), by inserting ", or to the equivalent of such benefit based on meeting the requirements of section 412(a) of title 38, United States Code," after "(42 U.S.C. 402(g))".

PART C—EDUCATION PROVISIONS

SEC. 321. MEASUREMENT OF LABORATORY INSTRUCTION.

(a) IN GENERAL.—Section 1788 is amended—

(1) in clause (B) of the first sentence of the matter following clause (7) of subsection (a), by inserting "(or two 50-minute periods)" after "two hours"; and

(2) in subsection (c), by inserting "(or two 50-minute periods)" after "two hours".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any enrollment or reenrollment commencing on or after the date of enactment of this Act. 38 USC 1788 note.

SEC. 322. AUTHORITY TO WAIVE COMPLIANCE SURVEYS.

The text of section 1793 is amended to read as follows:

"(a) Except as provided in subsection (b) of this section, the Administrator shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons if at least 300 veterans or persons are enrolled in such course or courses under provisions of this title or if any such course does not lead to a standard college degree. Such compliance survey shall be designed to ensure that the institution and approved courses are in compliance with all applicable provisions of chapters 30 through 36 of this title. The Administrator shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section for such year.

"(b) The Administrator may waive the requirement in subsection (a) of this section for an annual compliance survey with respect to an institution if the Administrator determines, based on the institution's demonstrated record of compliance with all the applicable provisions of chapters 30 through 36 of this title, that the waiver would be appropriate and in the best interest of the United States Government.".

102 STAT. 536

SEC. 323. EFFECTIVE DATE OF AWARDS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATION ASSISTANCE PROGRAM.

Section 3013 is amended by inserting "32," after "31,".

(b) MATTERS REQUIRED TO BE DETERMINED.—In conducting the study under subsection (a), the Administrator shall make determinations with respect to various factors which may affect the determinations to be made under subsection (a), including determinations of the following:

(1) Whether there is inappropriate pay compression between the rates of pay of long-time employees of the Veterans' Administration and either the rates of pay of their supervisors or the rates of pay of relatively new employees performing the same services as a result of the position classification and pay systems applicable to such long-time and relatively new employees or to their supervisors.

(2) If any such inappropriate pay compression exists and such compression results from such position classification and pay systems, whether it is feasible to revise such system or systems in order to eliminate such pay compression and how much would be the cost to revise such system or systems for that purpose and to implement the revisions.

(3) Whether the payment of pay differentials (or of increased pay differentials) for evening or night service is needed in order to improve the ability of the Veterans' Administration to recruit and retain personnel to perform services referred to in subsection (a) on evening or night shifts, in what amounts such differentials should be paid, how much would be the cost of the payment of such differentials, and what, if any, effects the payment of such differentials would be expected to have on the ability of the Veterans' Administration to recruit and retain personnel to perform such services on a shift for which a differential is not paid.

102 STAT. 533

(c) CONSIDERATION OF FLEXIBLE EMPLOYEE BENEFITS PROGRAMS.—In conducting the study under subsection (a), the Administrator shall review the personnel management practices of an appropriate sample of employers other than the Federal Government. The Administrator shall consider—

(1) the extent to which such employers provide flexible employment benefits under programs designed to meet the individual needs to their employees,

(2) the advantages of such programs for such employers and employees, and

(3) the feasibility, desirability, and appropriateness of establishing and carrying out any such flexible employment benefits program for employees of the Department of Medicine and Surgery of the Veterans' Administration.

(d) REPORTS.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study required by subsection (a). The report shall contain—

(1) the determinations of the Administrator under subsections (a) and (b); and

(2) any planned administrative actions, and any recommendations for legislation, that the Administrator considers appropriate to include in the report on the basis of the results of the study.

SEC. 232. REPORT ON CERTAIN ACTIVITIES RELATING TO TRAINING IN GERIATRICS OF MEDICAL AND OTHER HEALTH-PROFESSIONAL SCHOOLS AFFILIATED WITH THE VETERANS' ADMINISTRATION.

(a) REPORT.—Not later than August 1, 1988, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the Veterans' Administration's activities, and the success of those activities, designed to promote increased efforts by affiliated institutions (1) in training health-care professionals to care for older patients, and (2) in research into the aging process and diseases and disabilities associated with aging.

PART D—INSURANCE PROVISIONS

SEC. 331. AUTHORITY FOR ANNUITY ADJUSTMENTS.

(a)(1) Subchapter I of chapter 19 is amended by adding at the end the following new section:

38 USC 727.

"§ 727. Authority for higher monthly installments payable to certain annuitants

"(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of National Service Life Insurance, Veterans Special Life Insurance, or Veterans Reopened Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially sound for the program of insurance concerned. The Administrator may make such an adjustment without regard to the provisions of sections 702, 723, and 725 of this title with respect to interest rates and the use of mortality tables.

"(b) The Administrator shall determine the amount in the trust funds in the Treasury held for payment of proceeds to National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

"(c) The monthly amount of an annuity authorized in sections 702, 723, and 725 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.".

(2) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 726 the following new item:

"727. Authority for higher monthly installments payable to certain annuitants.".

(b)(1) Subchapter II of chapter 19 is amended by adding at the end the following new section:

38 USC 762.

"§ 762. Authority for higher monthly installments payable to certain annuitants

"(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of United States Government Life Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially sound. The Administrator may make such an adjustment without regard to the provisions of section 744 of this title with respect to interest rates and the use of mortality tables.

102 STAT. 537

"(b) The Administrator shall determine the amount in the trust fund in the Treasury held for payment of proceeds to United States Government Life Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

"(c) The monthly amount of an annuity authorized in section 744 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.".

(2) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 761 the following new item:

"762. Authority for higher monthly installments payable to certain annuitants.".

SEC. 332. EXEMPTIONS FROM STATE TAXATION.

(a) EXEMPTION.—Section 769 is amended by adding at the end the following new subsection:

"(g)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, or by any political subdivision or other governmental authority of a State, on or with respect to any premium paid under an insurance policy purchased under this subchapter.

"(2) Paragraph (1) of this subsection shall not be construed to exempt any company issuing a policy of insurance under this subchapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that company from business conducted under this subchapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to premiums paid for periods beginning after June 30, 1988. 38 USC 769 note.

SEC. 333. DIRECT ADMINISTRATION OF VETERANS' MORTGAGE LIFE INSURANCE.

(a) REVISION OF PROGRAM.—(1) Section 806 is amended to read as follows:

"§ 806. Veterans' Mortgage Life Insurance

"(a) The United States shall automatically insure any eligible veteran who is or has been granted assistance in securing a suitable housing unit under this chapter against the death of the veteran unless the veteran (1) submits to the Administrator in writing the veterans' election not to be insured under this section, or (2) fails to respond in a timely manner to a request from the Administrator for information on which the premium for such insurance can be based.

"(b) The initial amount of insurance provided a veteran under this section may not exceed the lesser of $40,000 or the amount of the loan outstanding on the housing unit. The amount of such insurance shall be reduced according to the amortization schedule of the loan and may not at any time exceed the amount of the outstanding loan with interest. If there is no outstanding loan on the housing unit, insurance is not payable under this section. If an eligible veteran elects not to be insured under this section, the veteran may thereafter be insured under this section, but only upon submission of an application, payment of required premiums, and compliance with such health requirements and other terms and conditions as may be prescribed by the Administrator. 102 STAT. 538

"(c) The premiums charged a veteran for insurance under this section shall be paid at such time and in such manner as the Administrator prescribes. The rates for such premiums shall be based on such mortality data as the Administrator considers appropriate to cover only the mortality cost of insuring standard lives. In the case of a veteran receiving compensation or other cash benefits paid to the veteran by the Administrator, the Administrator shall deduct from such compensation or other benefits the premiums charged the veteran under this section.

"(d)(1) The United States shall bear the costs of insurance under this section to the extent that such costs exceed premiums established by the Administrator. Premiums collected on insurance under this section shall be credited to the 'Veterans Insurance and

Indemnities' appropriation account, and all disbursements of insurance proceeds under this section shall be made from that account.

Appropriation authorization.

"(2) There are authorized to be appropriated to the Administrator for such account such amounts as may be necessary to carry out this section.

"(e) Any amount of insurance in force under this section on the date of the death of an eligible veteran insured under this section shall be paid to the holder of the mortgage loan, for payment of which the insurance was granted, for credit on the loan indebtedness. Any liability of the United States under such insurance shall be satisfied when such payment is made. If the Administrator is the holder of the mortgage loan, the insurance proceeds shall be credited to the loan indebtedness and, as appropriate, deposited in either the direct loan or loan guaranty revolving fund established by section 1823 or 1824 of this title, respectively.

"(f) The Administrator may prescribe such regulations relating to eligibility for insurance under this section, the maximum amount of insurance, the effective date of insurance, the maximum duration of insurance, and other pertinent matters not specifically provided for in this section as the Administrator determines are in the best interest of veterans or the United States.

"(g) The amount of the insurance in force at any time shall be the amount necessary to pay the mortgage indebtedness in full, except as otherwise limited by subsection (b) of this section or regulations prescribed by the Administrator under this section.

"(h) The Administrator shall issue to each veteran insured under this section a certificate setting forth the benefits to which the veteran is entitled under the insurance.

"(i) Insurance under this section shall terminate upon whichever of the following events first occurs:

"(1) Satisfaction of the veteran's indebtedness under the loan upon which the insurance is based.

"(2) The veteran's seventieth birthday.

"(3) Termination of the veteran's ownership of the property securing the loan.

102 STAT. 539

"(4) Discontinuance of payment of premiums by the veteran.

"(j) Termination of life insurance under this section shall not affect the guaranty or insurance of the loan by the Administrator.".

(2) The item relating to section 806 in the table of sections at the beginning of chapter 21 is amended to read as follows:

"806. Veteran's mortgage life insurance.".

38 USC 806 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act.

38 USC 806 note.

(c) SAVINGS PROVISION.—Mortgage protection life insurance granted to any veteran under the former section 806 shall continue in force with the United States as insurer, subject to the terms of subsection (d). Nothing in that subsection shall impair any rights of any veteran or mortgage loan holder under the former section 806 that matured before the effective date specified in subsection (b).

(d) DISCONTINUANCE OF CONTRACT PROGRAM.—(1) Effective as of the effective date specified in subsection (b), the Administrator shall discontinue the policy of insurance purchased in accordance with the former section 806.

(2) All premiums collected or received by the insurer on or after such effective date under a policy purchased under the former section 806 shall be promptly forwarded to the Administrator and shall be credited to the "Veterans Insurance and Indemnities" appropriation account. Any positive balance of the contingency reserve maintained by the insurer under such policy remaining after all charges have been made shall be payable to the Administrator and shall be deposited by the Administrator in such account, except that such balance may, upon the election of the insurer, be paid by the insurer in equal monthly installments over a period of not more than two years beginning on the date, after such effective date, that the Administrator specifies.

(e) FORMER SECTION 806 DEFINED.—For the purpose of subsections (c) and (d), the term "former section 806" means section 806 of title 38, United States Code, as in effect on the day before the effective date specified in subsection (b).

PART E—MEMORIAL AFFAIRS

SEC. 341. NATIONAL CEMETERY GRAVE MARKERS.

(a) IN GENERAL.—Section 1004(c)(2) is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new clauses:

"(C) in the case of any cemetery located on the grounds of or adjacent to a Veterans' Administration health-care facility, the Administrator may provide for flat grave markers; and

"(D) in the case of grave sites of cremated remains that are interred in the ground, the Administrator may provide for flat grave markers.".

(b) GRAVE MARKERS IN CERTAIN LOCATIONS.—Notwithstanding section 1004(c)(2) of title 38, United States Code, the Administrator may provide for flat grave markers in the cases of the national cemeteries in Riverside, California; Bourne, Massachusetts; Augusta, Michigan; and Indiantown Gap, Pennsylvania; and the proposed national cemetery approved by the Administrator, as of July 31, 1987, for Northern California.

State listing. 38 USC 1004 note.

102 STAT. 540

SEC. 342. CONTRIBUTIONS FOR CERTAIN PROJECTS.

Section 1004(f) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) The"; and

(2) by adding at the end the following new paragraph:

"(2) The Administrator may, to the extent of appropriated funds available for such purpose, make a contribution to local authorities for the construction of road improvements or traffic controls or other devices on land adjacent to a national cemetery if the Administrator determines that such a contribution is essential to ensure safe ingress to or egress from the cemetery.".

SEC. 343. STATE VETERANS' CEMETERY CONSTRUCTION GRANTS.

Section 1008(b) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(3) in paragraphs (1) and (2) (as so redesignated), by striking out "per centum" and inserting in lieu thereof "percent"; and

(4) in paragraph (2) (as so redesignated), by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (1)".

SEC. 344. GRAVE LINERS.

(a) AUTHORITY TO PROVIDE.—Section 906 is amended by adding at the end the following new subsection:

"(e)(1) The Administrator may provide a grave liner for any grave in a cemetery within the National Cemetery System in which remains are interred in a casket. The Secretary of the Army may provide a grave liner for such a grave in the Arlington National Cemetery.

"(2) The use of grave liners in a cemetery within the National Cemetery System or in the Arlington National Cemetery shall be in accordance with specifications and procedures approved by the Administrator or the Secretary, respectively.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 906. Headstones, markers, and grave liners".

(2) The item relating to such section in the table of sections at the beginning of chapter 23 is amended to read as follows:

"906. Headstones, markers, and grave liners.".

SEC. 345. AMERICAN BATTLE MONUMENTS COMMISSION FOREIGN CURRENCY FLUCTUATIONS.

(a) ESTABLISHMENT OF FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.—The Act entitled "An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes", approved March 4, 1923 (36 U.S.C. 121 et seq.), is amended by adding at the end the following new section:

36 USC 138c.

"SEC. 13. (a) There is hereby established in the Treasury an account to be known as the 'Foreign Currency Fluctuations, American Battle Monuments Commission, Account'. The account shall be

102 STAT. 541

used to provide funds, in addition to funds appropriated for salaries and expenses of the American Battle Monuments Commission, to pay the costs of such salaries and expenses that exceed the amount appropriated therefor as a result of fluctuations in currency exchange rates of foreign countries occurring after a budget request for the Commission is submitted to Congress. The account may not be used for any other purpose. Funds in the account may be transferred to funds appropriated for salaries and expenses of the Commission.

"(b) Funds transferred under subsection (a) shall be merged with and available for the same time period as the appropriation to which they are applied. A provision of law limiting the amount of funds the Commission may obligate in any fiscal year shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

"(c) An obligation of the Commission payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

"(d) Funds transferred from the Foreign Currency Fluctuations, American Battle Monuments Commission, Account may be transferred back to that account—

"(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

"(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

"(e) A transfer back to the account under subsection (d) may not be made after the end of the second fiscal year after the fiscal year in which the appropriation to which the funds were originally transferred is available for obligation.

"(f) Not later than the end of the second fiscal year following the fiscal year for which appropriations for salaries and expenses have been made available to the Commission, unobligated balances of such appropriation provided for a fiscal year may be transferred into the Foreign Currency Fluctuations, American Battle Monuments Commission, Account, to be merged with and available for the same period and purposes as that account.

Reports.

"(g) The Commission shall submit to the appropriate committees of the Congress each year a report on funds transferred under this section.".

36 USC 138c note.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Foreign Currency Fluctuations, American Battle Monuments Commission, Account the sum of $3,000,000.

36 USC 138c note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1988.

SEC. 346. TRANSFER OF THE ARIZONA VETERANS MEMORIAL CEMETERY TO THE VETERANS' ADMINISTRATION.

(a) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Administrator shall enter into an agreement with the State of Arizona that— Contracts.

(1) provides for the conveyance to the United States, without consideration, of all right, title, and interest in and to the Arizona Veterans Memorial Cemetery in the State of Arizona, consisting of approximately 225 acres; and Real property. 102 STAT. 542

(2) commits the State to provide to the Veterans' Administration in a timely manner funding in the amount necessary to supplement Federal funding so that the level of operation and maintenance of the cemetery as of the date the agreement is entered into can be maintained during the three-year period beginning on the date of the conveyance of the cemetery under the agreement.

(b) CEMETERY TO BECOME PART OF THE NATIONAL CEMETERY SYSTEM.—After acceptance by the Administrator, the Arizona Veterans Memorial Cemetery shall become part of the National Cemetery System and shall be administered in accordance with the provisions of chapter 24 of title 38, United States Code.

(c) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey that is conducted at no charge to the United States and is satisfactory to the Administrator of Veterans' Affairs.

(d) TERMS AND CONDITIONS.—The Administrator may require such terms and conditions with respect to the conveyance authorized by this section as the Administrator considers appropriate to protect the interests of the United States.

(e) WAIVER OF LIABILITY FOR REPAYMENT OF VETERANS' ADMINISTRATION GRANT.—The State of Arizona is not required to repay the Veterans' Administration, by reason of the conveyance of the Arizona Veterans Memorial Cemetery under this section, the amount of any grant made to such State with respect to such cemetery under section 1008 of title 38, United States Code.

(f) EXPENDITURES.—(1) During each of the one-year periods occurring during the three-year period beginning on the date on which the conveyance under subsection (a) is made, the Administrator may not obligate appropriated funds for the operation and maintenance of the Arizona Veterans Memorial Cemetery in excess of the greater of—

(A) the amount that the Administrator estimates would have been obligated for payment during the one-year period involved to the State pursuant to section 903(b)(1) of title 38, United States Code, in connection with the burial of deceased veterans had the cemetery not been transferred to the Veterans' Administration; or

(B) the amount obligated for such purpose during fiscal year 1987.

(2)(A) Subject to subparagraph (B), in each of the fiscal years occurring during the three-year period described in paragraph (1), the Administrator shall use amounts available for payments under such section 903(b)(1) for the operation and maintenance of such cemetery.

(B) Expenditures under subparagraph (A) shall not exceed the applicable limitation under paragraph (1).

(3) The Administrator shall use all funding received from the State, as described in subsection (a)(2), for the operation and maintenance of such cemetery.

(g) ACCEPTANCE OF GIFTS.—The Administrator may accept devises, bequests, and gifts made in any manner by any person or entity for the purpose of the operation, maintenance, or improvement of the Arizona Veterans Memorial Cemetery after the Administrator has accepted title thereto pursuant to subsection (a) and shall use the funds or property involved for the intended purpose. 102 STAT. 543

(h) GRAVE MARKERS.—Notwithstanding section 1004(c)(2) of title 38, United States Code, the Administrator shall provide for the use of flat grave markers for interments at the Arizona Veterans Memorial Cemetery after the conveyance of the cemetery to the United States.

TITLE IV—VETERANS' ADMINISTRATION MANAGEMENT AND ADMINISTRATION

PART A—PROCUREMENT POLICY

SEC. 401. INTEGRITY OF CONTRACTING OUT PROCESS AT HEALTH-CARE FACILITIES.

(a) REQUIREMENT FOR TWO BIDDERS.—Section 5010(c)(2) is amended by inserting "responsive bids are received from at least two responsible, financially autonomous bidders and" after "only if".

38 USC 5010 note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to the awarding of contracts under solicitations issued after the date of the enactment of this Act.

38 USC 5025 note.

SEC. 402. STANDARDIZATION OF MEDICAL AND PHARMACEUTICAL ITEMS.

Not later than October 1, 1989, the Administrator shall develop and fully implement an agency-wide plan for the cost-effective standardization, in a manner consistent with the effective furnishing of health-care services, of medical and pharmaceutical items procured by the Veterans' Administration. The plan shall provide for the procurement of generic pharmaceutical items when such procurement is more economical than procurement of a name-brand pharmaceutical item unless the Chief Medical Director of the Veterans' Administration (1) determines, after consultation with the Commissioner of the Food and Drug Administration, that an equivalent generic item is not available, or (2) determines that the procurement of a name-brand item is necessary in the interests of effective patient care.

SEC. 403. REQUIREMENTS FOR THE PROCUREMENT OF HEALTH-CARE ITEMS.

(a) IN GENERAL.—(1) Subchapter II of chapter 81 is amended by adding at the end the following new section:

38 USC 5025.

"§ 5025. Procurement of health-care items

"(a) Except as provided in subsections (b) and (c) of this section, the Administrator may not procure health-care items under local contracts.

"(b)(1) A health-care item for use by the Veterans' Administration may be procured under a local contract if—

"(A) the procurement is within the limits prescribed in paragraph (3) of this subsection; and

"(B)(i) the item is not otherwise available to the Veterans' Administration medical center concerned,

"(ii) procurement of the item by a local contract is necessary for the effective furnishing of health-care services or the conduct of a research or education program at a Veterans' Administration medical center, as determined by the director of the center in accordance with regulations which the Chief Medical Director shall prescribe, or

"(iii) procurement under a local contract is demonstrably more cost-effective for the item.

"(2) In the case of the need for an emergency procurement of a health-care item, such item may be procured under a local contract, but no greater quantity of such item may be procured by a local contract than is reasonably necessary to meet the emergency need and the reasonably foreseeable need for the item at the medical center concerned until resupply can be achieved through procurement actions other than emergency procurement.

"(3)(A) Except as provided in subparagraphs (C) and (D) of this paragraph, not more than 20 percent of the total of all health-care items procured by the Veterans' Administration in any fiscal year (measured as a percent of the total cost of all such health-care items procured by the Veterans' Administration in that fiscal year) may be procured under local contracts.

"(B) Local contracts for the procurement of health-care items shall, to the maximum extent feasible, be awarded to regular dealers or manufacturers engaged in the wholesale supply of such items. Contracts.

"(C) The Administrator may increase for a fiscal year the percentage specified in subparagraph (A) of this section to a percentage not greater than 30 percent if the Administrator, based on the experience of the Veterans' Administration during the two fiscal years preceding such fiscal year, determines that the increase and the amount of the increase are necessary in the interest of the effective furnishing of health-care services by the Veterans' Administration. The authority to increase such percentage may not be delegated.

"(D) Items procured through an emergency procurement shall not be counted for the purpose of this paragraph.

"(c) A provision of law that is inconsistent with subsection (a) or (b) of this section shall not apply, to the extent of the inconsistency, to the procurement of a health-care item for use by the Veterans' Administration.

"(d)(1) Not later than December 1 of each year, the director of each Veterans' Administration medical center shall transmit to the Administrator a report containing a list indicating the quantity of each health-care item procured at that medical center under a local contract during the preceding fiscal year and the total amount paid for such item during such fiscal year. Reports.

"(2) Not later than February 1 of each year, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out this section during the preceding fiscal year. Reports.

"(e) For the purposes of this section:

"(1) The term 'health-care item' includes any item listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 65, 66, or 73. Such term does not include perishable items.

"(2) The term 'local contract' means a contract entered into by a Veterans' Administration medical center for procurement of an item for use by that medical center.

"(3) The term 'emergency procurement' means a procurement necessary to meet an emergency need, affecting the health or safety of a person being furnished health-care services by the Veterans' Administration, for an item.".

102 STAT. 545

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5024 the following new item:

"5025. Procurement of health-care items.".

(b) EFFECTIVE DATES.—(1) Subsection (b)(1) of section 5025 of title 38, United States Code (as added by subsection (a)), shall take effect one year after the date of the enactment of this Act. 38 USC 5025 note.

(2) Subsection (b)(3) of such section shall apply to health-care items procured for use by the Veterans' Administration after September 30, 1990.

SEC. 404. MULTIYEAR PROCUREMENT OF CERTAIN MEDICAL ITEMS.

(a) AUTHORITY FOR MULTIYEAR CONTRACTS.—Chapter 1 is amended by adding at the end the following new section:

"§ 114. Multiyear procurement for certain medical items 38 USC 114.

"(a) The Administrator may enter into a multiyear contract for the procurement of supplies or services for use in Veterans' Administration health-care facilities if the Administrator makes each of the following determinations:

"(1) Appropriations are available for obligations that are necessary for total payments that would be required during the fiscal year in which the contract is entered into, plus the estimated amount of any cancellation charge payable under the contract.

"(2) The contract is in the best interest of the United States by reason of the effect that use of a multiyear, rather than one-year, contract would have in—

"(A) reducing costs;

"(B) achieving economies in contract administration or in any other Veterans' Administration activities;

"(C) increasing quality of performance by or service from the contractors; or

"(D) encouraging effective competition.

"(3) During the proposed contract period—

"(A) there will be a continuing or recurring need for the supplies or services being procured;

"(B) there is not a substantial likelihood of substantial changes in the need for such supplies or services in terms of the total quantity of such supplies or services or of the rate of delivery of such supplies or services; and

"(C) the specifications for the supplies or services are expected to be reasonably stable.

"(4) The risks relating to the prospective contractor's ability to perform in accordance with the specifications and other terms of the contract are not excessive.

"(5) The use of a multiyear contract will not inhibit small business concerns in competing for the contract.

"(6) In the case of the procurement of a pharmaceutical item for which a patent has expired less than four years before the date on which the solicitation of offers is issued, there is no substantial likelihood that increased competition among potential contractors would occur during the term of the contract as the result of the availability of generic equivalents increasing during the term of the contract.

102 STAT. 546

"(b)(1) A multiyear contract authorized by this section shall contain—

"(A) a provision that the obligation of the United States under the contract during any fiscal year which is included in the contract period and is subsequent to the fiscal year during which the contract is entered into is contingent on the availability of sufficient appropriations (as determined by the Administrator pursuant to paragraph (2)(A) of this subsection) if, at the time the contract is entered into, appropriations are not available to cover the total estimated payments that will be required during the full term of the contract; and

"(B) notwithstanding section 1502(a) of title 31, a provision for the payment of reasonable cancellation charges to compensate the contractor for nonrecurring, unrecovered costs, if any, if the performance is cancelled pursuant to the provision required by subparagraph (A) of this paragraph.

"(2)(A) If, during a fiscal year after the fiscal year during which a multiyear contract is entered into under this section, the Administrator determines that, in light of other funding needs involved in the operation of Veterans' Administration health-care programs, the amount of funds appropriated for such subsequent fiscal year is not sufficient for such contract, the Administrator shall cancel such contract pursuant to the provisions required by paragraph (1)(A) of this subsection.

"(B) Cancellation charges under a multiyear contract shall be paid from the appropriated funds which were originally available for performance of the contract or the payment of cancellation costs unless such funds are not available in an amount sufficient to pay the entire amount of the cancellation charges payable under the contract. In a case in which such funds are not available in such amount, funds available for the procurement of supplies and serv-

ices for use for the same purposes as the supplies or services procured through such contract shall be used to the extent necessary to pay such cost.

"(c) Nothing in this section shall be construed so as to restrict the Administrator's exercise of the right to terminate for convenience a contract under any other provision of law which authorizes multiyear contracting.

"(d) The Administrator shall prescribe regulations for the implementation of this section. Regulations.

"(e) For the purposes of this section:

"(1) The term 'appropriations' has the meaning given that term in section 1511 of title 31.

"(2) The term 'cancel' or 'cancellation' refers to the termination of a contract by the Administrator as required under paragraph (2)(B)(i) of this subsection.

"(3) The term 'multiyear contract' means a contract which by its terms is to remain in effect for a period which extends beyond the end of the fiscal year during which the contract is entered into but not beyond the end of the fourth fiscal year following such fiscal year. Such term does not include a contract for construction or for a lease of real property.

"(4) The term 'nonrecurring, unrecovered costs' means those costs reasonably incurred by the contractor in performing a multiyear contract which (as determined under regulations prescribed under subsection (d) of this section) are generally incurred on a one-time basis."

102 STAT. 547

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"114. Multiyear procurement for certain medical items.".

PART B—GENERAL ADMINISTRATIVE AND FINANCIAL MATTERS

SEC. 411. SEQUESTRATION RULES APPLICABLE TO VETERANS' PROGRAMS.

(a) RESTORATION OF CERTAIN REVOLVING FUNDS.—(1) Notwithstanding section 601(b) of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99-576), section 113(b)(2) of title 38, United States Code, shall apply with respect to a sequestration order issued, or a sequestration law enacted, for any fiscal year after fiscal year 1985. 38 USC 113 note.

(2) The Secretary of the Treasury shall take such action as is necessary to implement paragraph (1). Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the action taken by the Secretary pursuant to that paragraph. Reports.

(b) EXTENSION OF EXEMPTION FOR CERTAIN SERVICE-CONNECTED REHABILITATION AND EDUCATION BENEFITS.—Section 113(a) is amended by striking out "(but only with respect to fiscal year 1987)" each place it appears in paragraphs (4) and (5).

(c) TECHNICAL AMENDMENTS.—Subsection (d) of such section is amended by striking out "a joint report of the Directors of the Office of Management and Budget and the Congressional Budget Office" and inserting in lieu thereof "a report of the Director of the Office of Management and Budget". Reports.

SEC. 412. CHILD-CARE SERVICES AT VETERANS' ADMINISTRATION FACILITIES.

(a) OPERATION BY VETERANS' CANTEEN SERVICE.—Chapter 75 is amended by adding at the end the following new section:

"§ 4209. Child-care centers 38 USC 4209.

"(a)(1) The Administrator, through the Service, shall provide for the operation of child care centers at Veterans' Administration facilities in accordance with this section. The operation of such

centers shall be carried out to the extent that the Administrator determines, based on the demand for the care involved, that such operation is in the best interest of the Veterans' Administration and that is practicable to do so. The centers shall be available for the children of Veterans' Administration employees and, to the extent space is available, the children of other employees of the Federal Government and the children of employees of affiliated schools and corporations created under section 4161 of this title.

Government organization and employees.

"(2) There shall be in the Service an official who is responsible for all matters relating to the provision of child care services under the authority of this section.

"(b) The Service shall establish reasonable charges for child-care services provided at each child-care center operated under this section. The charges shall be subject to the approval of the Administrator. In the case of a center operated directly by the Service, the charges with respect to the center shall be sufficient to provide for the operating expenses of the center, including the expenses of personnel assigned to the center. In the case of a center operated by a contractor which is a for-profit entity, the charges shall be established by taking into consideration the value of the space and services furnished with respect to the center under subsection (c)(1) of this section.

102 STAT. 548

"(c) In connection with the establishment and operation of any child care center under this section, the Administrator—

"(1) shall furnish, at no cost to the center, space in existing Veterans' Administration facilities and utilities, custodial services, and other services and amenities necessary (as determined by the Administrator) for the health and safety of the children provided care at the center;

"(2) may, on a reimbursable basis, convert space furnished under clause (1) of this subsection for use as the child care center and provide other items necessary for the operation of the center, including furniture, office machines and equipment, and telephone service, except that the Administrator may furnish basic telephone service and surplus furniture and equipment without reimbursement;

"(3) shall provide for the participation (directly or through a parent advisory committee) of parents of children receiving care in the center in the establishment of policies to govern the operation of the center and in the oversight of the implementation of such policies;

"(4) shall require the development and use of a process for determining the fitness and suitability of prospective employees of or volunteers at the center; and

"(5) shall require in connection with the operation of the center compliance with all State and local laws, ordinances, and regulations relating to health and safety and the operation of child-care centers.

Regulations.

"(d) The Administrator shall prescribe regulations to carry out this section.

"(e) For the purpose of this section, the term 'parent advisory committee' means a committee comprised of, and selected by, the parents of children receiving care in a child care center operated under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4209. Child-care centers.".

SEC. 413. ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

38 USC 219 note.

(a) NATIVE HAWAIIAN REPRESENTATION.—(1) Subsections (b) and (c)(3)(A) of section 19032 of the Veterans' Health-Care Amendments of 1986 (Public Law 99-272; 100 Stat. 388) are amended by striking out "and Alaska Natives" and inserting in lieu thereof ", Alaska Natives, and Native Hawaiians".

ment of 1,600 full-time local veterans' employment representatives and the States' administrative expenses associated with the assignment of that number of such representatives and shall be allocated to the several States so that each State receives funding sufficient to support—

"(A) the number of such representatives who were assigned in such State on January 1, 1987, for which funds were provided under this chapter, plus one additional such representative;

"(B) the percentage of the 1,600 such representatives for which funding is not provided under clause (A) of this paragraph which is equal to the average of (i) the percentage of all veterans residing in the United States who reside in such State, (ii) the percentage of the total of all eligible veterans and eligible persons registered for assistance with local employment service offices in the United States who are registered for assistance with local employment service offices in such State, and (iii) the percentage of all full-service local employment service offices in the United States which are located in such State; and

"(C) the State's administrative expenses associated with the assignment of the number of such representatives for which funding is allocated to the State under clauses (A) and (B) of this paragraph.

"(2)(A) The local veterans' employment representatives allocated to a State pursuant to paragraph (1) of this subsection shall be assigned by the administrative head of the employment service in the State, after consultation with the Director for Veterans' Employment and Training for the State, so that as nearly as practical (i) one full-time representative is assigned to each local employment service office at which at least 1,100 eligible veterans and eligible persons are registered for assistance, (ii) one additional full-time representative is assigned to each local employment service office for each 1,500 eligible veterans and eligible persons above 1,100 who are registered at such office for assistance, and (iii) one half-time representative is assigned to each local employment service office at which at least 350 but less than 1,100 eligible veterans and eligible persons are registered for assistance.

"(B) In the case of a service delivery point (other than a local employment service office described in subparagraph (A) of this paragraph) at which employment services are offered under the Wagner-Peyser Act, the head of such service delivery point shall be responsible for ensuring compliance with the provisions of this title providing for priority services for veterans and priority referral of veterans to Federal contractors.

"(3) For the purposes of this subsection, an individual shall be considered to be registered for assistance with a local employment service office during a program year if the individual—

102 STAT. 561

"(A) registered, or renewed such individual's registration, for assistance with the office during that program year; or

Regulations.

"(B) so registered or renewed such individual's registration during a previous program year and, in accordance with regulations which the Secretary shall prescribe, is counted as still being registered for administrative purposes.

"(4) In the assigning of local veterans' employment representatives on or after July 1, 1988, preference shall be given to qualified eligible veterans or eligible persons. Preference shall be accorded first to qualified service-connected disabled veterans; then, if no such disabled veteran is available, to qualified eligible veterans; and, if no such eligible veteran is available, then to qualified eligible persons.

Handicapped persons.

"(b) Local veterans' employment representatives shall—

"(1) functionally supervise the providing of services to eligible veterans and eligible persons by the local employment service staff;

"(2) maintain regular contact with community leaders, employers, labor unions, training programs, and veterans' organizations for the purpose of (A) keeping them advised of

"(3) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect before October 23, 1970, is hereby restored and shall not expire until used.".

(2) Subsection (g) of section 1802—

(A) is amended by striking out "1801(a)" and inserting in lieu thereof "1801(b)"; and

(B) as amended by subparagraph (A) of this paragraph, is transferred so that it will appear at the end of subsection (a) of such section and is redesignated as paragraph (4) of such subsection (a).

(3)(A) Section 1815—

(i) is amended by striking out the section heading;

(ii) is amended by redesignating subsection (a) as paragraph (2)(A) and redesignating subsection (b) as subparagraph (B); and

(iii) as amended by clauses (i) and (ii) of this subparagraph, is transferred so that it will appear as paragraph (2) of section 1803(a), as amended by subparagraph (B)(ii) of this paragraph.

(B) Section 1803 is amended—

(i) by striking out the section heading and inserting in lieu thereof the following:

"**§ 1803. Basic provisions relating to loan guaranty and insurance**"; and

(ii) in subsection (a) by striking out paragraph (2).

(4) Section 1807 is repealed.

(b) TECHNICAL REORGANIZATION OF SUBCHAPTERS II AND III.—(1)(A) Section 1816(a)(4)(A)(i)(I) is amended by striking out "section 1816(a)(2) of this title" and inserting in lieu thereof "paragraph (2) of this subsection".

(B) Section 1816(c)(10) is amended—

(i) in subparagraph (A), by inserting "(or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection)" after "loan"; and

(ii) in subparagraph (B)(ii), by inserting "(5)(A) or" after "under paragraph".

(C) The heading and subsections (a), (b), and (c) of section 1816, as amended by subparagraphs (A) and (B) of this paragraph, are redesignated as a new section 1832 and transferred to subchapter III of chapter 37 so that they will appear following section 1831.

(D) Subsections (d), (e), and (f) of section 1816 are redesignated as subsections (a), (b), and (c), respectively, and transferred so that they will appear after section 1832, as transferred by subparagraph (C) of this paragraph with the following heading:

"**§ 1833. Property management**".

(2)(A) Section 1817(a) is amended by striking out "under section 1810" and inserting in lieu thereof "for purposes specified in section 1810".

102 STAT. 551

(B) Section 1817, as amended by subparagraph (A) of this paragraph, and section 1817A are redesignated as sections 1813 and 1814, respectively, and transferred so that they will appear after section 1812, as transferred by paragraph (4)(C) of this subsection.

(3) Section 1818 is repealed.

(4)(A) Section 1819 is amended by striking out "under this section" each place it appears in subsections (a)(4)(C), (b)(1), (c)(2), (c)(4), (d)(1), (e), (f), (g) (except where it appears in the second sentence), and (h)(1) and inserting in lieu thereof "for purposes specified in this section".

(B) Section 1819(c) is amended—

(i) in the first sentence of paragraph (3) by inserting before the period the following: "as specified in paragraph (4) of this subsection";

(ii) in the second sentence of paragraph (4), by striking out "under section 1810" and inserting in lieu thereof "for purposes specified in section 1810"; and

(iii) in the second sentence of paragraph (4), by striking out "under such section 1810" and inserting in lieu thereof "for purposes specified in such section 1810".

(C) Section 1819, as amended by subparagraphs (A) and (B) of this paragraph, is redesignated as section 1812 and transferred so that it will appear following section 1811.

(5) Section 1832—

(A) is amended by striking out the section heading;

(B) is amended by redesignating subsection (a) as subsection (d)(1) and subsection (b) as paragraph (2); and

(C) as amended by clause (A) and (B) of this paragraph, is transferred so that it will appear at the end of the new section 1833 added by paragraph (4) of this subsection.

(c) CONFORMING AMENDMENTS.—(1) Section 1801(a) is amended by striking out "1819(a)(1)" and inserting in lieu thereof "1812(a)(1)".

(2) Section 1803(c)(3) is amended—

(A) in clause (A), by striking out "1819(a)(1)(F)" and inserting in lieu thereof "1812(a)(1)(F)"; and

(B) in clause (E), by striking out "1819(a)(1)(G)" and inserting in lieu thereof "1812(a)(1)(G)".

(3) Section 1804 is amended—

(A) in clause (C) of subsection (c)(2), by striking out "1819(a)(5)(A)(i)" and inserting in lieu thereof "1812(a)(5)(A)(i)";

(B) in clause (D) of subsection (c)(2), by striking out "1819(e)(5)" and inserting in lieu thereof "1812(e)(5)"; and

(C) in subsection (f), by striking out "1817A" each place it appears and inserting in lieu thereof "1814".

(4) Section 1810 is amended—

(A) in subsection (a)(9)(B)(ii), by striking out "section 1819(a)(5)" and inserting in lieu thereof "section 1812(a)(5)"; and

(B) in subsection (g)(2), by striking out "section 1819(e)(2)" and inserting in lieu thereof "section 1812(e)(2)".

(5) Section 1811 is amended—

(A) by striking out "1819" each place it appears and inserting in lieu thereof "1812"; and

(B) in subsection (b), by striking out "1819(a)(1)(F)" and inserting in lieu thereof "1812(a)(1)(F)".

(6) Section 1829(d) is amended by striking out "1817A" and inserting in lieu thereof "1814".

(7) Any reference, in effect on the date of the enactment of this Act, in any law, rule, or regulation to any of the sections, or parts thereof, which are redesignated or transferred by this section shall be construed to refer to the section, or part thereof, as redesignated or transferred by this section.

38 USC 1802 note.

102 STAT. 552

(d) TECHNICAL AMENDMENTS.—(1) Section 1803(a)(1) is amended—

(A) in clause (A)(ii), by inserting "as specified in subparagraph (B) of this paragraph" before the period; and

(B) in clause (B), by striking out "under section 1810 of this chapter" and inserting in lieu thereof "for purposes specified in section 1810 of this title".

(2) Section 1811 is amended—

(A) in subsections (a), (b), and (g), by striking out "under section 1810 or" and inserting in lieu thereof "for purposes specified in section 1810 or"; and

(B) in subsection (d)(2)(B), by striking out "under section 1810(c)" and inserting in lieu thereof "for purposes specified in section 1810".

(e) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 37 is amended—

(1) by striking out the item relating to section 1803 and inserting in lieu thereof the following:

"1803. Basic provisions relating to loan guaranty and insurance.";

(2) by striking out the item relating to section 1807;

(3) by striking out the items relating to subchapter II and inserting in lieu thereof the following:

"SUBCHAPTER II—LOANS

"1810. Purchase or construction of homes.
"1811. Direct loans to veterans.
"1812. Loans to purchase manufactured homes and lots.
"1813. Release from liability under guaranty.
"1814. Assumptions; release from liability.";

and

(4) by striking out the item relating to section 1832 and inserting in lieu thereof the following:

"1832. Procedure on default.
"1833. Property management.".

38 USC 1802 note.

(f) TECHNICAL NATURE OF AMENDMENTS.—The status of any veteran with respect to benefits under chapter 37 of title 38, United States Code, shall not be affected by the amendments made by, or other provisions of, this section.

PART C—REAL PROPERTY

SEC. 421. LIMITATION ON TRANSFER OF PROPERTY TO OTHER AGENCIES.

(a) GENERAL RULE.—(1) Paragraph (2) of section 5022(a) is amended to read as follows:

"(2)(A) The Administrator may not during any fiscal year transfer to another Federal agency or to a State (or any political subdivision of a State) any interest in real property described in subparagraph (B) of this paragraph unless (i) the transfer (as proposed) was described in the budget for that fiscal year submitted to Congress pursuant to section 1105 of title 31, and (ii) the Veterans' Administration receives compensation equal to the fair market value of the property.

"(B) An interest in real property described in this subparagraph is an interest in real property that is owned by the United States and administered by the Veterans' Administration and that has an estimated value in excess of $50,000.

102 STAT. 553

"(C) Amounts realized from the transfer of any interest in real property described in subparagraph (B) of this paragraph shall be deposited in the nursing home revolving fund established under section 5016 of this title.".

Reports. 38 USC 5022 note.

(2) Any proposed transfer of real property described in subparagraph (B) of section 5022(a)(2) of title 38, United States Code, as amended by paragraph (1), that is described in a report submitted to the Committees on Veterans' Affairs of the Senate and House of Representatives by the Administrator not later than 30 days after the date of the enactment of this Act shall be deemed for purposes of subparagraph (A) of that section to have been described in the President's budget for fiscal year 1989.

100 Stat. 3266.

(b) SPECIAL RULE.—(1) Section 234 of Public Law 99-576 is repealed.

California.

(2) The Administrator may not declare as excess to the needs of the Veterans' Administration, or otherwise take any action to dispose of, the land and improvements at the Veterans' Administration Medical Center, West Los Angeles, California (consisting of approximately 109 acres), and at the Veterans' Administration Medical Center, Sepulveda, California (consisting of approximately 46 acres), described in letters dated February 5, 1986 (and enclosed maps), from the Administrator to the Committees on Veterans' Affairs of the Senate and House of Representatives pursuant to section 5022(a)(2) of title 38, United States Code, as in effect on that date.

SEC. 422. CONGRESSIONAL PROCEDURES FOR APPROVAL OF MEDICAL FACILITY ACQUISITION AND CONSTRUCTION.

(a) PROCEDURES.—Paragraph (2) of section 5004(a) is amended to read as follows:

"(2) It shall not be in order in the Senate or in the House of Representatives to consider a bill, resolution, or amendment which would make an appropriation for any fiscal year which may be expended for a major medical facility project or a major medical facility lease unless—

"(A) such bill, resolution, or amendment specifies the amount to be appropriated for that project or lease,

"(B) the project or lease has been approved in a resolution adopted by the Committee on Veterans' Affairs of that House, and

"(C) the amount to be appropriated for that project or lease is no more than the amount specified in that resolution for that project or lease for that fiscal year.".

(b) DEFINITIONS.—Section 5004(a) is further amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) For the purpose of this subsection:

"(A) The term 'major medical facility project' means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2,000,000, but such term does not include an acquisition by exchange.

"(B) The term 'major medical facility lease' means a lease for space for use as a medical facility at an average annual rental of more than $500,000.".

(c) COST VARIATIONS.—Subsection (c) of section 5004 is amended to read as follows:

102 STAT. 554

"(c) Not less than 30 days before obligating funds for a major medical facility project approved by a resolution described in subsection (a)(2) of this section in an amount that would cause the total amount obligated for that project to exceed the amount specified in the resolution for that project (or would add to total obligations exceeding such specified amount) by more than 10 percent, the Administrator shall provide the committees with notice of the Administrator's intention to do so and the reasons for the specified amount being exceeded.".

(d) CONFORMING REPEAL.—Such section is further amended—

(1) by striking out subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 423. USE OF FORMER HOSPITAL IN MINOT, NORTH DAKOTA.

(a) AGREEMENT WITH SECRETARY OF LABOR.—Upon the satisfaction of the conditions specified in subsection (b), the Administrator shall enter into an agreement with the Secretary of Labor for the use by the Secretary for nominal consideration of the 20.6 acres of land in the city of Minot, North Dakota, on which the Department of the Air Force on July 31, 1987, was operating, under a no-cost use agreement with the Veterans' Administration, the John Moses Air Force Hospital and on which the Veterans' Administration Hospital, Minot, North Dakota, was formerly located.

(b) CONDITIONS.—The conditions referred to in subsection (a) are as follows:

(1) Sufficient funds are appropriated to the Department of Labor by the end of fiscal year 1989 to enable the Department to establish a Job Corps Center in North Dakota.

(2) The Secretary of Labor selects the property referred to in subsection (a) as the site for such a Job Corps Center.

(3) The Secretary agrees to use such property as a Job Corp Center for the duration of the lease agreement with the Administrator.

(c) RENEWALS.—The agreement between the Administrator and the Secretary of Labor under subsection (a) shall be renewed for nominal consideration for successive 10-year periods upon request of the Secretary of Labor.

(d) REVERSAL OF PRIOR ADMINISTRATIVE ACTION.—The action of the Veterans' Administration of September 29, 1987, in declaring the property referred to in subsection (a) to be excess to the needs of

the Veterans' Administration is hereby rescinded, and such property is returned to the jurisdiction of the Veterans' Administration.

(e) PROHIBITION ON VETERANS' ADMINISTRATION EXPENDITURES.—Notwithstanding any other provision of law, the Veterans' Administration shall not expend any funds for the repair, improvement, or alteration of the property referred to in subsection (a) in connection with the use of such property by the Secretary of Labor.

SEC. 424. NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTER IN SHREVEPORT, LOUISIANA.

Public buildings and grounds.

102 STAT. 555

The Veterans' Administration Medical Center in Shreveport, Louisiana, shall after the date of the enactment of this Act be known and designated as the "Overton Brooks Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Overton Brooks Veterans' Administration Medical Center.

Approved May 20, 1988.

LEGISLATIVE HISTORY—H.R. 2616 (S. 9):

HOUSE REPORTS: No. 100-191 (Comm. on Veterans' Affairs) and No. 100-578 (Comm. of Conference).
SENATE REPORTS: No. 100-215 accompanying S. 9 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): June 29, 30, considered and passed House.
Dec. 3, S. 9 considered in Senate.
Dec. 4, H.R. 2616 considered and passed Senate, amended, in lieu of S. 9.
Vol. 134 (1988): Mar. 29, House concurred in Senate amendment with amendments.
Apr. 27, House agreed to conference report.
Apr. 28, Senate agreed to conference report.

102 STAT. 556

Public Law 100-323
100th Congress

An Act

May 20, 1988
[S. 999]

To amend title 38, United States Code, and the Veterans' Job Training Act to improve veterans' employment, counseling, and job-training services and programs; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Employment, Training, and Counseling Amendments of 1988.
38 USC 101 note.

SECTION 1. SHORT TITLE; REFERENCE TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Employment, Training, and Counseling Amendments of 1988".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. ADMINISTRATION OF EMPLOYMENT AND TRAINING PROGRAMS.

(a) IN GENERAL.—Section 2002A is amended—

(1) by inserting "(a)" before "There"; and

(2) by adding at the end the following new subsections:

Handicapped persons.
State and local governments.

"(b) The Secretary shall—

"(1) except as expressly provided otherwise, carry out all provisions of this chapter and chapter 43 of this title through the Assistant Secretary of Labor for Veterans' Employment and Training and administer through such Assistant Secretary all programs under the jurisdiction of the Secretary for the provi-

sion of employment and training services designed to meet the needs of disabled veterans, veterans of the Vietnam era, and all other eligible veterans and eligible persons;

"(2) in order to make maximum use of available resources in meeting such needs, encourage all such programs and all grantees under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns), educational institutions, trade associations, and labor unions; Contracts.

"(3) ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to eligible veterans under all such programs by coordinating and consulting with the Administrator with respect to (A) programs conducted under other provisions of this title, with particular emphasis on coordination of such programs with readjustment counseling activities carried out under section 612A of this title, apprenticeship or other on-the-job training programs carried out under section 1787 of this title, and rehabilitation and training activities carried out under chapter 31 of this title, and (B) the Veterans' Job Training Act (29 U.S.C. 1721 note); 102 STAT. 557

"(4) ensure that job placement activities are carried out in coordination and cooperation with appropriate State public employment service officials;

"(5) subject to subsection (c)(2) of this section, make available for use in each State, directly or by grant or contract, such funds as may be necessary (A) to support (i) disabled veterans' outreach program specialists appointed under section 2003A(a)(1) of this title, and (ii) local veterans' employment representatives assigned under section 2004(b) of this title, and (B) to support the reasonable expenses of such specialists and representatives for training, travel, supplies, and fringe benefits, including travel expenses and per diem for attendance at the National Veterans' Employment and Training Services Institute established under section 2009 of this title; Grants. Contracts.

"(6) monitor and supervise on a continuing basis the distribution and use of funds provided for use in the States under paragraph (5) of this subsection; and

"(7) monitor the appointment of disabled veterans' outreach specialists and the assignment of local veterans' employment representatives in order to ensure compliance with the provisions of sections 2003A(a)(1) and 2004(a)(4), respectively, of this title.

"(c)(1) The distribution and use of funds under subsection (b)(5) of this section in order to carry out sections 2003A(a) and 2004(a) of this title shall be subject to the continuing supervision and monitoring of the Secretary and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section or section 2003A or 2004 of this title.

"(2) In determining the terms and conditions of a grant or contract under which funds are made available in a State in order to carry out section 2003A or 2004 of this title, the Secretary shall take into account (A) the results of the evaluations, carried out pursuant to section 2003(c)(15) of this title, of the performance of local employment offices in the State, and (B) the monitoring carried out under this section. Grants. Contracts. State and local governments.

"(3) Each grant or contract by which funds are made available in a State shall contain a provision requiring the recipient of the funds to comply with the provisions of this chapter.

"(d) The Assistant Secretary of Labor for Veterans' Employment and Training shall promote and monitor participation of qualified veterans and eligible persons in employment and training opportunities under the Job Training Partnership Act and other federally funded employment and training programs.

"(e)(1) The Secretary shall assign to each region for which the Secretary operates a regional office a representative of the Veterans' Employment and Training Service to serve as the Regional Administrator for Veterans' Employment and Training in such region.

"(2) Each such Regional Administrator shall be responsible for—

"(A) ensuring the promotion, operation, and implementation of all veterans' employment and training programs and services within the region;

102 STAT. 558

Contracts.

"(B) monitoring compliance with section 2012 of this title with respect to veterans' employment under Federal contracts within the region;

"(C) protecting and advancing veterans' reemployment rights within the region; and

Grants.
Contracts.

"(D) coordinating, monitoring, and providing technical assistance on veterans' employment and training programs with respect to all entities receiving funds under grants from or contracts with the Department of Labor within the region.".

(b) BUDGETING.—Section 2006(a) is amended—

(1) in the fifth sentence—

State and local governments.

(A) by striking out "to fund the disabled veterans' outreach program under section 2003A" and inserting in lieu thereof "in all of the States for the purposes specified in paragraph (5) of section 2002A(b) of this title and to fund the National Veterans' Employment and Training Services Institute under section 2009";

(B) by striking out "such section" and inserting in lieu thereof "such sections"; and

(2) by striking out the sixth sentence and inserting in lieu thereof the following: "Each budget submission with respect to such funds shall include separate listings of the amount for the National Veterans' Employment and Training Services Institute and of the proposed numbers, by State, of disabled veterans' outreach program specialists appointed under section 2003A of this title and local veterans' employment representatives assigned under section 2004 of this title, together with information demonstrating the compliance of such budget submission with the funding requirements specified in the preceding sentence.".

Handicapped persons.

(c) USE OF ADMINISTRATIVE FUNDS.—Section 2006(d) is amended by striking out ", except with" and all that follows through "purposes".

(d) REPORTING REQUIREMENTS.—Section 2007(c) is amended to read as follows:

"(c) Not later than February 1 of each year, the Secretary shall report to the Committees on Veterans' Affairs of the Senate and the House of Representatives on the success during the preceding program year of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter and programs for the provision of employment and training services to meet the needs of eligible veterans and eligible persons. The report shall include—

Vietnam.
Handicapped persons.

"(1) specification, by State and by age group, of the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the public employment service system and, for each of such categories, the numbers referred to and placed in permanent and other jobs, the numbers referred to and placed in jobs and job training programs supported by the Federal Government, the number counseled, and the number who received some, and the number who received no, reportable service;

"(2) a comparison of the job placement rate for each of the categories of veterans and persons described in clause (1) of this subsection with the job placement rate for nonveterans of the same age groups registered for assistance with the public employment system in each State;

"(3) any determination made by the Secretary during the preceding fiscal year under section 2006 of this title or subsection (a)(2) of this section and a statement of the reasons for such determination; 102 STAT. 559

"(4) a report on activities carried out during the preceding program year under sections 2003A and 2004 of this title; and

"(5) a report on the operation during the preceding program year of programs for the provision of employment and training services designed to meet the needs of eligible veterans and eligible persons, including an evaluation of the effectiveness of such programs during such program year in meeting the requirements of section 2002A(b) of this title, the efficiency with which services were provided through such programs during such year, and such recommendations for further legislative action (including the need for any changes in the formulas governing the appointment of disabled veterans' outreach program specialists under section 2003A(a)(2) of this title and the assignment of local veterans' employment representatives under section 2004(b) of this title and the allocation of funds for the support of such specialists and representatives) relating to veterans' employment and training as the Secretary considers appropriate.". Handicapped persons.

(e) CONFORMING, TECHNICAL, AND CLERICAL AMENDMENTS.—(1) Section 2003A is amended—

(A) in subsection (a)—

(i) by striking out paragraphs (1), (3), and (5) and redesignating paragraphs (2) and (4) as paragraphs (1) and (2), respectively;

(ii) in paragraph (1) (as so redesignated)—

(I) by amending the first sentence to read as follows: "The amount of funds made available for use in a State under section 2002A(b)(5)(A)(i) of this title shall be sufficient to support the appointment of one disabled veterans' outreach program specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in such State."; State and local governments. Handicapped persons.

(II) in the second sentence, by inserting "qualified" before "veteran";

(III) in the third, fourth, and fifth sentences, by inserting "qualified" before "disabled" each place it appears; and

(IV) in the fifth sentence, by inserting "qualified" after "any"; and

(iii) in paragraph (2) (as so redesignated) by striking out "paragraph (2) of"; and

(B) by striking out subsection (d).

(2) Section 2006(a) is amended by striking out the last sentence.

(3)(A) The section heading of section 2002A is amended to read as follows:

"§ 2002A. Assistant Secretary of Labor for Veterans' Employment and Training; Regional Administrators".

(B) The table of contents of chapter 41 is amended by striking out the item relating to section 2002A and inserting in lieu thereof the following: 102 STAT. 560

"2002A. Assistant Secretary of Labor for Veterans' Employment and Training; Regional Administrators.".

SEC. 3. LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.

(a) IN GENERAL.—Section 2004 is amended to read as follows:

"§ 2004. Local veterans' employment representatives

"(a)(1) Beginning with fiscal year 1988, the total of the amount of funds made available for use in the States under section 2002A(b)(5)(A)(ii) of this title shall be sufficient to support the assign- Effective date.

eligible veterans and eligible persons available for employment and training, and (B) keeping eligible veterans and eligible persons advised of opportunities for employment and training;

"(3) provide directly, or facilitate the provision of, labor exchange services by local employment service staff to eligible veterans and eligible persons, including intake and assessment, counseling, testing, job-search assistance, and referral and placement;

"(4) encourage employers and labor unions to employ eligible veterans and eligible persons and conduct on-the-job training and apprenticeship programs for such veterans and persons;

"(5) promote and monitor the participation of veterans in federally funded employment and training programs, monitor the listing of vacant positions with State employment agencies by Federal agencies, and report to the Director for Veterans' Employment and Training for the State concerned any evidence of failure to provide priority or other special consideration in the provision of services to veterans as is required by law or regulation; Reports.

"(6) monitor the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of this title;

"(7) work closely with appropriate Veterans' Administration personnel engaged in providing counseling or rehabilitation services under chapter 31 of this title, and cooperate with employers in identifying disabled veterans who have completed or are participating in a vocational rehabilitation training program under such chapter and who are in need of employment; Handicapped persons.

"(8) refer eligible veterans and eligible persons to training, supportive services, and educational opportunities, as appropriate;

"(9) assist, through automated data processing, in securing and maintaining current information regarding available employment and training opportunities; Records.

"(10) cooperate with the staff of programs operated under section 612A of this title in identifying and assisting veterans who have readjustment problems and who may need services available at the local employment service office;

102 STAT. 562

"(11) when requested by a Federal or State agency, a private employer, or a service-connected disabled veteran, assist such agency, employer, or veteran in identifying and acquiring prosthetic and sensory aids and devices needed to enhance the employability of disabled veterans; and Handicapped persons.

"(12) facilitate the provision of guidance or counseling services, or both, to veterans who, pursuant to section 5(b)(3) of the Veterans' Job Training Act (29 U.S.C. 1721 note), are certified as eligible for participation under such Act.

"(c) Each local veterans' employment representative shall be administratively responsible to the manager of the local employment service office and shall provide reports, not less frequently than quarterly, to the manager of such office and to the Director for Veterans' Employment and Training for the State regarding compliance with Federal law and regulations with respect to special services and priorities for eligible veterans and eligible persons. Reports.

"(d) Local veterans' employment representatives shall be assigned, in accordance with this section, by the administrative head of the employment service in each State after consultation with the Director for Veterans' Employment and Training.".

(b) DEFINITION.—Section 2001 is amended by adding the following at the end:

"(7) The term 'local employment service office' means a service delivery point which has an intrinsic management structure and at which employment services are offered in accordance with the Wagner-Peyser Act.".

(c) CLERICAL AMENDMENT.—The item for section 2004 in the table of contents for chapter 41 is amended to read as follows:

"2004. Local veterans' employment representatives.".

SEC. 4. PERFORMANCE OF DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS AND LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.

(a) IN GENERAL.—(1) Chapter 41 is amended by inserting after section 2004 the following new section:

38 USC 2004A.

"§ 2004A. Performance of disabled veterans' outreach program specialists and local veterans' employment representatives

"(a)(1) Subject to paragraph (2) of this subsection, each State employment agency shall develop and apply standards for the performance of disabled veterans' outreach program specialists appointed under section 2003A(a) of this title and local veterans' employment representatives assigned under section 2004(b) of this title.

"(2)(A) Such standards shall be consistent with the duties and functions specified in section 2003A(b) of this title with respect to such specialists and section 2004(b) (1) through (12) of this title with respect to such representatives.

"(B) In developing such standards, the State employment agency—

"(i) shall take into account (I) the prototype developed under paragraph (3) of this subsection, and (II) the comments submitted under clause (ii) of this subparagraph by the Director for Veterans' Employment and Training for the State;

"(ii) shall submit to such Director proposed standards for comment;

102 STAT. 563

"(iii) may take into account the State's personnel merit system requirements and other local circumstances and requirements; and

"(iv) may request the assistance of such Director.

"(C) Such standards shall include as one of the measures of the performance of such a specialist the extent to which the specialist, in serving as a case manager under section 14(b)(1)(A) of the Veterans' Job Training Act (29 U.S.C. 1721 note), facilitates rates of successful completion of training by veterans participating in programs of job training under the Act.

"(3)(A) The Secretary, after consultation with State employment agencies or their representatives, or both, shall provide to such agencies a prototype of performance standards for use by such agencies in the development of performance standards under subsection (a)(1) of this section.

"(B) Each Director for Veterans' Employment and Training—

"(i) shall, upon the request of the State employment agency under paragraph (2)(B)(iv) of this subsection, provide appropriate assistance in the development of performance standards,

"(ii) may, within 30 days after receiving proposed standards under paragraph (2)(B)(ii) of this subsection, provide comments on the proposed standards, particularly regarding the consistency of the proposed standards with such prototype.

"(b)(1) Directors for Veterans' Employment and Training and Assistant Directors for Veterans' Employment and Training shall regularly monitor the performance of the specialists and representatives referred to in subsection (a)(1) of this section through the application of the standards required to be prescribed by subsection (a)(1).

"(2) A Director for Veterans' Employment and Training for a State may submit to the head of the employment service in the State recommendations and comments in connection with each annual performance rating of such specialists and representatives in the State.".

38 USC 2004A note.

(2) Each State employment agency (A) shall develop and promulgate standards under section 2004A of title 38, United States Code, as added by paragraph (1) of this subsection, as soon as feasible, and in doing so (B) shall submit proposed standards to the Director for

Veterans' Employment and Training for the State not later than 12 months after the date on which the Secretary provides the agency with prototype standards under subsection (a)(3)(A) of such section, and (C) shall adopt final standards not later than 90 days after submitting the proposed standards to the Director for Veterans' Employment and Training for comment under subsection (a)(3)(B)(ii) of such section.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 41 is amended by adding after the item for section 2004 the following new item:

"2004A. Performance of disabled veterans' outreach program specialists and local veterans' employment representatives.".

SEC. 5. WAIVER OF RESIDENCY REQUIREMENT FOR DIRECTORS AND ASSISTANT DIRECTORS FOR VETERANS' EMPLOYMENT AND TRAINING.

Section 2003(b)(1) is amended—

(1) by inserting "(A)" after "(1)";

(2) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively;

(3) in clause (i), as redesignated by clause (2) of this section, by striking out "be an eligible veteran" and inserting in lieu thereof ", except as provided in subparagraph (B) of this paragraph, be a qualified veteran"; and

(4) by adding at the end the following new subparagraph:

"(B) If, in appointing a Director or Assistant Director for any State under this section, the Secretary determines that there is no qualified veteran available who meets the residency requirement in subparagraph (A)(i), the Secretary may appoint as such Director or Assistant Director any qualified veteran.".

SEC. 6. SHARING OF INFORMATION REGARDING POTENTIAL EMPLOYERS.

(a) BETWEEN THE DEPARTMENTS OF DEFENSE AND LABOR.—Section 2005 is amended—

(1) by inserting "(a)" before "All"; and

(2) by adding at the end the following new subsection:

"(b) For the purpose of assisting the Secretary and the Administrator in identifying employers with potential job training opportunities under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note) and otherwise in order to carry out this chapter, the Secretary of Defense shall provide, not more than 30 days after the date of the enactment of this subsection, the Secretary and the Administrator with any list maintained by the Secretary of Defense of employers participating in the National Committee for Employer Support of the Guard and Reserve and shall provide, on the 15th day of each month thereafter, updated information regarding the list.".

(b) BETWEEN THE VETERANS' ADMINISTRATION AND THE DEPARTMENT OF LABOR.—(1) Section 2008 is amended—

(A) by inserting "(a)" before "In"; and

(B) by adding at the end the following new subsection:

"(b) The Administrator shall provide to appropriate employment service offices and Department of Labor offices, as designated by the Secretary, on a monthly or more frequent basis, the name and address of each employer located in the areas served by such offices that offer a program of job training which has been approved by the Administrator under section 7 of the Veterans' Job Training Act (29 U.S.C. 1721 note).".

(2)(A) The heading of section 2008 is amended to read as follows:

"§ 2008. Cooperation and coordination".

(B) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2008. Cooperation and coordination.".

(2) Subsection (g) of such section is amended to read as follows:
"(g) DEFINITIONS.—For the purposes of this section:
"(1) The term 'Alaska Native' has the meaning given the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).
"(2) The term 'Native Hawaiian' has the meaning given that term in section 813(3) of the Native American Programs Act of 1974 (42 U.S.C. 2992c(3)).".
(b) ONE-YEAR EXTENSION.—(1) Subsection (f)(1) of such section is amended by striking out "and February 1, 1988" and inserting in lieu thereof "February 1, 1988, and February 1, 1989".
(2) Subsection (h) of such section is amended—
(A) by striking out "second" and inserting in lieu thereof "third"; and
(B) by striking out "the Committee" and inserting in lieu thereof "the Administrator".

102 STAT. 549

SEC. 414. MANAGEMENT OF CANTEEN SERVICE.

(a) FINANCIAL MANAGEMENT.—(1) The second sentence of section 4205 is amended by inserting "or other interest-bearing accounts" after "checking accounts".
(2) Section 4206 is amended by striking out the second sentence.
(b) EXEMPTION OF CANTEEN SERVICE FROM PERSONNEL CEILING.—(1) Chapter 75 is amended by adding at the end the following:

"§ 4210. Exemption from personnel ceilings

38 USC 4210.

"Persons who are employed by the Service and compensated from the revolving fund established by section 4204 of this title may not be considered to be employees of the Veterans' Administration for the purposes of any personnel ceiling which may otherwise be applied to employees of the Veterans' Administration by the President or an official of the executive branch.".
(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4210. Exemption from personnel ceilings.".

SEC. 415. TECHNICAL AMENDMENTS TO CHAPTER 37.

(a) TECHNICAL REORGANIZATION OF SUBCHAPTER I.—(1) Section 1802(a) is amended—
(A) by striking out "(a)" and inserting in lieu thereof "(a)(1)";
(B) by striking out the first sentence and inserting in lieu thereof: "The veterans described in paragraph (2) of this subsection are eligible for the housing loan benefits of this chapter.";
(C) by striking out "in the preceding sentence, or in section 1818 of this title," in the second sentence and inserting in lieu thereof "in paragraph (2)";
(D) by striking out "(1)" and "(2)" in the second sentence and inserting in lieu thereof "(A)" and "(B)", respectively;
(E) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively; and
(F) by adding at the end the following:
"(2) The veterans referred to in the first sentence of paragraph (1) of this subsection are the following:
"(A) Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more.
"(B) Each veteran who after September 15, 1940, was discharged or released from a period of active duty for a service-connected disability.
"(C) Each veteran, other than a veteran described in clause (A) or (B) of this paragraph, who—
"(i) served after July 25, 1947, for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable; or
"(ii) has served more than 180 days in active duty status and continues on active duty without a break therein.

Loans.

102 STAT. 550

SEC. 7. RESPONSIBILITIES OF PERSONNEL.

(a) DIRECTORS FOR VETERANS' EMPLOYMENT AND TRAINING.—Section 2003(c) is amended—

(1) in clause (1)—

(A) by inserting "(A) functionally supervise the provision of services to eligible veterans and eligible persons by such system and such program and their staffs, and (B)" after "(1)"; and

102 STAT. 565

(B) by inserting ", including the program conducted under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note)" after "programs";

(2) in clause (2), by inserting "and otherwise to promote the employment of eligible veterans and eligible persons" after "opportunities";

(3) in clause (11), by striking out "and" at the end;

(4) in clause (12), by striking out the period and inserting in lieu thereof a semicolon; and

(5) by adding at the end the following new clauses:

Reports.

"(13) monitor the implementation of Federal laws requiring veterans preference in employment and job advancement opportunities within the Federal Government and report to the Office of Personnel Management or other appropriate agency, for enforcement or other remedial action, any evidence of failure to provide such preference or to provide priority or other special consideration in the provision of services to veterans as is required by law or regulation;

Reports.

"(14) monitor, through disabled veterans' outreach program specialists and local veterans' employment representatives, the listing of vacant positions with State employment agencies by Federal agencies, and report to the Office of Personnel Management or other appropriate agency, for enforcement or other remedial action, any evidence of failure to provide priority or other special consideration in the provision of services to veterans as is required by law or regulation; and

"(15)(A) not less frequently than annually, conduct, subject to subclause (B) of this clause, an evaluation at each local employment office of the services provided to eligible veterans and eligible persons and make recommendations for corrective action as appropriate; and

"(B) carry out such evaluations in the following order of priority: (I) offices that demonstrated less than satisfactory performance during either of the two previous program years, (II) offices with the largest number of veterans registered during the previous program year, and (III) other offices as resources permit.".

(b) DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS.—Section 2003A(c) is amended—

(1) in clause (4), by inserting "(including part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.))" after "programs";

(2) in clause (6), by inserting "(including the program conducted under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note))" after "programs"; and

(3) by adding at the end the following new clauses:

"(9) Provision of vocational guidance or vocational counseling services, or both, to veterans with respect to veterans' selection of and changes in vocations and veterans' vocational adjustment.

"(10) Provision of services as a case manager under section 14(b)(1)(A) of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note).".

SEC. 11. VETERANS' JOB TRAINING ACT AMENDMENTS.

29 USC 1721 note.

(a) COUNSELING.—(1) Section 14 of the Veterans' Job Training Act is amended by striking out subsection (b) and inserting in lieu thereof the following:

"(b)(1) The Secretary shall provide for a program under which—

"(A) except as provided in paragraph (2), a disabled veteran's outreach program specialist appointed under section 2003A(a) of title 38, United States Code, is assigned as a case manager for each veteran participating in a program of job training under this Act;

"(B) the veteran has an in-person interview with the case manager not later than 60 days after entering into a program of training under this Act; and

"(C) periodic (not less frequent than monthly) contact is maintained with each such veteran for the purpose of (i) avoiding unnecessary termination of employment, (ii) referring the veteran to appropriate counseling, if necessary, (iii) facilitating the veteran's successful completion of such program, and (iv) following up with the employer and the veteran in order to determine the veteran's progress in the program and the outcome regarding the veteran's participation in and successful completion of the program.

"(2) No case manager shall be assigned pursuant to paragraph (1)(A)—

"(A) for a veteran if, on the basis of a recommendation made by a disabled veterans' outreach program specialist, the Secretary determines that there is no need for a case manager for such veteran; or

"(B) in the case of the employees of an employer, if the Secretary determines that—

"(i) the employer has an appropriate and effective employee assistance program that is available to all veterans participating in the employer's programs of job training under this Act; or

"(ii) the rate of veterans' successful completion of the employer's programs of job training under this Act, either cumulatively or during the previous program year, is 60 percent or higher.

"(3) The Secretary and the Administrator shall jointly provide, to the extent feasible—

"(A) a program of counseling or other services (to be provided pursuant to subchapter IV of chapter 3 of title 38, United States Code, and sections 612A, 2003A, and 2004 of such title) designed to resolve difficulties that may be encountered by veterans during their training under this Act; and

"(B) a program of information services under which—

"(i) each veteran who enters into a program of job training under this Act and each employer participating under this Act is informed of the supportive services and resources available to the veteran (I) under clauses (A) and (B), (II) through Veterans' Administration counseling and career-development activities (especially, in the case of a Vietnam-era veteran, readjustment counseling services under section 612A of such title) and under part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.), and (III) through other appropriate agencies in the community; and

"(ii) veterans and employers are encouraged to request such services whenever appropriate.

"(c) Before a veteran who voluntarily terminates from a program of job training under this Act or is involuntarily terminated from such program by the employer may be eligible to be provided with a further certificate, or renewal of certification, of eligibility for participation under this Act, such veteran must be provided by the Secretary, after consultation with the Administrator, with a case manager.".

102 STAT. 568

Medical Director shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Chief Medical Director prior to the completion of the term for which the Chief Medical Director is appointed, the President shall communicate the reasons for such removal to both Houses of Congress.

(2)(A) Whenever a vacancy in the position of Chief Medical Director occurs or is anticipated, the Secretary of Veterans Affairs shall establish a commission to recommend individuals to the President for appointment to the position.

102 STAT. 2636

(B) A commission established under this paragraph shall be composed of the following members appointed by the Secretary:

(i) Three persons representing clinical care and medical research and education activities affected by the Veterans Health Services and Research Administration.

(ii) Two persons representing veterans served by the Veterans Health Services and Research Administration.

(iii) Two persons who have experience in the management of veterans health services and research programs, or programs of similar content and scope.

(iv) The Deputy Secretary of Veterans Affairs.

(v) The Chairman of the Special Medical Advisory Group established under section 4112 of title 38, United States Code.

(vi) One person who has held the position of Chief Medical Director, if the Secretary determines that it is desirable for such person to be a member of the Commission.

(C) A commission established under this paragraph shall recommend at least three individuals for appointment to the position of Chief Medical Director. Such commission shall submit all recommendations to the Secretary. The Secretary shall forward such recommendations to the President with any comments the Secretary considers appropriate. Thereafter, the President may request such commission to recommend additional individuals for appointment.

(D) The Assistant Secretary or Deputy Assistant Secretary of Veterans Affairs who performs personnel management and labor relations functions shall serve as the executive secretary of a commission established under this paragraph.

President of U.S.

(c) CHIEF BENEFITS DIRECTOR.—(1) There shall be in the Department a Chief Benefits Director, who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation or activity and solely on the basis of integrity and demonstrated ability in fiscal management and the administration of programs within the Veterans Benefits Administration or programs of similar content and scope. The Chief Benefits Director shall be the head of, and shall be directly responsible to the Secretary for the operations of, the Veterans Benefits Administration. The Chief Benefits Director shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Chief Benefits Director prior to the completion of the term for which the Chief Benefits Director is appointed, the President shall communicate the reasons for such removal to both Houses of Congress.

(2)(A) Whenever a vacancy in the position of Chief Benefits Director occurs or is anticipated, the Secretary of Veterans Affairs shall establish a commission to recommend individuals to the President for appointment to the position.

(B) A commission established under this paragraph shall be composed of the following members appointed by the Secretary:

(i) Three persons representing education and training, real estate, mortgage finance, and related industries, and survivor benefits activities affected by the Veterans Benefits Administration.

(ii) Two persons representing veterans served by the Veterans Benefits Administration.

SEC. 8. NATIONAL VETERANS' EMPLOYMENT AND TRAINING SERVICES INSTITUTE. 102 STAT. 566

(a) ESTABLISHMENT OF INSTITUTE.—Section 2009 is amended to read as follows:

"§ 2009. National Veterans' Employment and Training Services Institute

"(a) In order to provide for such training as the Secretary considers necessary and appropriate for the efficient and effective provision of employment, job-training, counseling, placement, job-search, and related services to veterans, the Secretary shall establish and make available such funds as may be necessary to operate a National Veterans' Employment and Training Services Institute for the training of disabled veterans' outreach program specialists, local veterans' employment representatives, Directors for Veterans' Employment and Training, and Assistant Directors for Veterans' Employment and Training, Regional Administrators for Veterans' Employment and Training, and such other personnel involved in the provision of employment, job-training, counseling, placement, or related services to veterans as the Secretary considers appropriate, including travel expenses and per diem for attendance at the Institute.

"(b) In implementing this section, the Secretary shall, as the Secretary considers appropriate, provide, out of program funds designated for the Institute, training for Veterans' Employment and Training Service personnel, including travel expenses and per diem to attend the Institute.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 41 is amended by striking out the item for section 2009 and inserting in lieu thereof the following:

"2009. National Veterans' Employment and Training Services Institute.".

SEC. 9. STUDY OF UNEMPLOYMENT AMONG CERTAIN DISABLED VETERANS AND VIETNAM THEATER VETERANS.

(a) IN GENERAL.—Chapter 41 is further amended by adding at the end the following new section:

"§ 2010A. Special unemployment study

38 USC 2010A.
Reports.

"(a) The Secretary, through the Bureau of Labor Statistics, shall conduct, on a biennial basis, studies of unemployment among special disabled veterans and among veterans who served in the Vietnam Theater of Operations during the Vietnam era and promptly report to the Congress on the results of such studies.

"(b) The first study under this section shall be completed not later than 180 days after the date of the enactment of this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 41 is amended by adding at the end the following new item:

"2010A. Special unemployment study.".

SEC. 10. SECRETARY'S COMMITTEE ON VETERANS' EMPLOYMENT.

Clause (1) of section 2010(b) is amended—

(1) by redesignating subclauses (D), (E), and (F) as subclauses (E), (F), and (G), respectively;

(2) by inserting after subclause (C) the following:

"(D) the Secretary of Education;" 102 STAT. 567

(3) by striking out "and" at the end of subclauses (F) and (G) (as so redesignated); and

(4) by adding at the end the following:

"(H) the Postmaster General; and

"(I) any other agency of the Federal Government which has had its request to have a representative on the committee approved by the Secretary; and".

(2) Section 14(a) of the Veterans' Job Training Act is amended— 29 USC 1721 note.

(A) by striking out "The" and inserting in lieu thereof "(1) The"; and

(B) by adding at the end the following new paragraph:

"(2) The Administrator shall, after consultation with the Secretary, provide a program of job-readiness skills development and counseling services designed to assist veterans in need of such assistance in finding, applying for, and successfully participating in a suitable program of job training under this Act. As part of providing such services, the Administrator shall coordinate activities, to the extent practicable, with the readjustment counseling program described in section 612A of title 38, United States Code. The Administrator shall advise veterans participating under this Act of the availability of such services and encourage them to request such services whenever appropriate.".

(3)(A) Section 1504(a)(7) is amended—

(i) by inserting "(A)" before "individualized"; and

(ii) by striking out the period and inserting in lieu thereof ", and (B) job-readiness skills development and counseling under section 14(a)(2) of the Veterans' Job Training Act (29 U.S.C. 1721 note) for a participant in a program of training under such Act.".

(B) Section 14 of the Veterans' Job Training Act is amended by adding after the subsections inserted by paragraph (1) of this subsection the following:

"(d) Payments made under this Act pursuant to contracts entered into for the provision of job-readiness skills development and counseling services under subsection (a)(2) may only be paid out of the same account used to make payments under section 1504(a)(7) of title 38, United States Code, and the amount paid out of such account in any fiscal year for such services shall not exceed an amount equal to 5 percent of the amount obligated to carry out this Act for such fiscal year, except that for fiscal year 1988 the amount shall not exceed 5 percent of the amount available to carry out this Act on October 1, 1987.".

(4) Section 7(d) of such Act is amended— 29 USC 1721 note.

(A) by redesignating paragraph (12) as paragraph (13); and

(B) inserting after paragraph (11) the following new paragraph:

102 STAT. 569

"(12) That, as applicable, the employer will provide each participating veteran with the full opportunity to participate in a personal interview pursuant to section 14(b)(1)(A) during the veteran's normal workday.".

(b) DISCONTINUANCE OF APPROVAL OF PARTICIPATION IN PROGRAMS OF EMPLOYERS WITH UNSATISFACTORY COMPLETION RATES.—Section 11 of such Act is amended— 29 USC 1721 note.

(1) by inserting "(a)" after "SEC. 11."; and

(2) by adding at the end the following new subsection:

"(b)(1) If the Administrator determines that the rate of veterans' successful completion of an employer's programs of job training previously approved by the Administrator for the purposes of this Act is disproportionately low because of deficiencies in the quality of such programs, the Administrator shall disapprove participation in such programs on the part of veterans who had not begun such participation on the date that the employer is notified of the disapproval. In determining whether any such rate is disproportionately low because of such deficiencies, the Administrator shall take into account appropriate data, including—

"(A) the quarterly data provided by the Secretary with respect to the number of veterans who receive counseling in connection with training under this Act, are referred to employers under this Act, participate in job training under this Act, complete such training or do not complete such training, and the reasons for noncompletion; and

"(B) data compiled through the particular employer's compliance surveys.

"(2) With respect to a disapproval under paragraph (1), the Administrator shall provide to the employer concerned the kind of statement, opportunity for hearing, and notice described in subsection (a).

"(3) A disapproval under paragraph (1) shall remain in effect until such time as the Administrator determines that adequate remedial action has been taken.".

29 USC 1721 note.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 16 of such Act is amended—

(1) by inserting "(a)" before "There";

(2) in subsection (a) (as so designated)—

(A) in the first sentence—

(i) by inserting "(1)" after "Administration";

(ii) by striking out "and" the second place it appears and inserting in lieu thereof ", (2)"; and

(iii) by striking out "1987, and 1988" and inserting in lieu thereof "and 1987, and (3) $60,000,000 for each of the fiscal years 1988 and 1989"; and

(B) in the final sentence, by striking out "1989" and inserting in lieu thereof "1991"; and

(3) by adding at the end the following new subsection:

"(b) Notwithstanding any other provision of law, any funds appropriated under subsection (a) for any fiscal year which are obligated for the purpose of making payments under section 8 on behalf of a veteran (including funds so obligated which previously had been obligated for such purpose on behalf of another veteran and were thereafter deobligated) and are later deobligated shall immediately upon deobligation become available to the Administrator for obligation for such purpose. The

102 STAT. 570

further obligation of such funds by the Administrator for such purpose shall not be delayed, directly or indirectly, in any manner by any officer or employee in the executive branch.".

29 USC 1721 note.

(2) DEADLINES FOR VETERANS' APPLICATIONS AND ENTRY INTO TRAINING.—Section 17 of such Act is amended to read as follows:

"TIME PERIODS FOR APPLICATION AND INITIATION OF TRAINING

"SEC. 17. Assistance may not be paid to an employer under this Act—

"(1) on behalf of a veteran who initially applies for a program of job training under this Act after September 30, 1989; or

"(2) for any such program which begins after March 31, 1990.".

29 USC 1721 note.

(e) CONFORMING AMENDMENT.—Section 5(b)(3)(A) of such Act is amended by striking out "The" at the beginning of the first sentence and inserting in lieu thereof "Subject to section 14(c), the".

29 USC 1721 note.

(f) DATA ON PARTICIPATION.—Section 15 of such Act is amended by adding at the end the following new subsection:

State and local governments.

"(f) The Secretary shall, on a not less frequent than quarterly basis, collect and compile from the heads of State employment services and Directors for Veterans' Employment and Training for each State information available to such heads and Directors, and derived from programs carried out in their respective States, with respect to the numbers of veterans who receive counseling services pursuant to section 14, who are referred to employers participating under this Act, who participate in programs of job training under this Act, and who complete such programs, and the reasons for veterans' noncompletion.".

29 USC 1721 note.

SEC. 12. TRAINING AND EMPLOYMENT STUDY AND REPORT.

The Administrator of Veterans' Affairs shall provide for a study, based on valid statistical samplings, of the implementation of the Veterans' Job Training Act and shall transmit, not later than one year after the date of the enactment of this Act, a report to the Committees on Veterans' Affairs of the Senate and the House of

Representatives containing the findings and conclusions of such study, including, to the extent feasible—

(1) a listing, by regional office and by State, of the number of veterans placed in a program of job training under the Veterans' Job Training Act and the percentage that this number represents of the total number of veterans certified (not including renewal of certifications), by regional office and by State, as eligible for participation under such Act;

(2) a description, by regional office and by State, of the demographic nature (including race, sex, age, educational level, service-connected disability status, income before placement, and income after placement) of veterans placed in a program of job training under such Act;

(3) a description, by regional office and by State, of the demographic nature (including, race, sex, age, educational level, service-connected disability status, and income) of veterans certified as eligible for participation under such Act but not placed in a job training program;

(4) an analysis of the reasons that veterans certified as eligible for participation have not been placed in a program of job training under such Act;

102 STAT. 571

(5) a listing, by regional office and by State, of the number of veterans who were certified as eligible for participation under such Act and were not placed in a program of job training under such Act but were later placed in another job training program or employment;

(6) a description, by regional office and by State, of the rate at which veterans have discontinued participation in, without completing, a program of job training under such Act, with a separate rate stated for those who discontinued within 3 months after beginning such a program, those who discontinued within 3 to 6 months after such beginning, and those who discontinued within 6 to 9 months after such beginning;

(7) an analysis of the major reasons for veterans failing to complete such a training program;

(8) a ranking of the twenty-five categories of employment (by types of business or industry and trade) for which programs of job training have most frequently been denied approval under such Act, with such ranking being made on the basis of the number of denials for each such category; and

(9) a ranking of the twenty-five categories of employment (by types of business or industry and trade) for which veterans have most frequently received employment as a result of a program of job training under such Act, with such ranking being made on the basis of the number of jobs provided in each such category.

SEC. 13. STATE APPROVING AGENCIES.

(a) PAYMENTS.—(1) Section 1774(a) is amended—

(A) by striking out "The" in the first sentence and inserting in lieu thereof "(1) Subject to paragraphs (2) through (4) of this subsection, the";

(B) by striking out "(1)" and "(2)" in the first sentence and inserting in lieu thereof "(A)" and "(B)", respectively; and

(C) by adding at the end the following new paragraphs:

"(2)(A) The Administrator shall, effective at the beginning of fiscal year 1988, make payments to State and local agencies, out of amounts available for the payment of readjustment benefits, for the reasonable and necessary expenses of salary and travel incurred by employees of such agencies in carrying out contracts or agreements entered into under this section and for the allowance for administrative expenses described in subsection (b).

Effective date.
Contracts.
Wages.

"(B) The Administrator shall make such a payment to an agency within a reasonable time after the agency has submitted a report pursuant to paragraph (3)(A) of this subsection.

"(C) Subject to paragraph (4) of this subsection, the amount of any such payment made to an agency for any period shall be equal to the amount of the reasonable and necessary expenses of salary and travel certified by such agency for such period in accordance with paragraph (3) of this subsection plus the allowance for administrative expenses described in subsection (b).

Contracts. Reports.

"(3)(A) Each State and local agency with which a contract or agreement is entered into under this section shall submit to the Administrator on a monthly or quarterly basis, as determined by the agency, a report containing a certification of the reasonable and necessary expenses incurred for salary and travel by such agency under such contract or agreement for the period covered by the report. The report shall be submitted in the form and manner required by the Administrator.

102 STAT. 572

Reports.

"(B) The Administrator shall transmit a report to the Congress on a quarterly basis which summarizes—

"(i) the amounts for which certifications were made by State and local agencies in the reports submitted under subparagraph (A) of this paragraph with respect to the quarter for which the report is made; and

"(ii) the amounts of the payments made by the Administrator for such quarter with respect to such certifications and with respect to administrative expenses.

"(4) The total amount made available under this section for any fiscal year may not exceed $12,000,000. For any fiscal year in which the total amount that would be made available under this section would exceed $12,000,000 except for the provisions of this paragraph, the Administrator shall provide that each agency shall receive the same percentage of $12,000,000 as the agency would have received of the total amount that would have been made available without the limitation of this paragraph.".

38 USC 1774 note.

(2) If any payment is made to State or local approving agencies with respect to activities carried out under subchapter I of chapter 36 of title 38, United States Code, for fiscal year 1988 before the date of the enactment of this Act and from an account other than the account used for payment of readjustment benefits, the account from which such payment was made shall be reimbursed from the account used for payment of readjustment benefits.

(b) EMPLOYMENT STANDARDS.—(1) Subchapter I of chapter 36 is amended—

(A) by inserting the following new section after section 1774:

38 USC 1774A.

"§ 1774A. Evaluations of agency performance; qualifications and performance of agency personnel

"(a) The Administrator shall—

"(1)(A) conduct, in conjunction with State approving agencies, an annual evaluation of each State approving agency on the basis of standards developed by the Administrator in conjunction with the State approving agencies, and (B) provide each such agency an opportunity to comment on the evaluation;

Contracts.

"(2) take into account the results of annual evaluations carried out under clause (1) when negotiating the terms and conditions of a contract or agreement under section 1774 of this title;

Contracts.

"(3) supervise functionally the provision of course-approval services by State approving agencies under this subchapter;

"(4) cooperate with State approving agencies in developing and implementing a uniform national curriculum, to the extent practicable, for training new employees and for continuing the training of employees of such agencies, and sponsor, with the agencies, such training and continuation of training; and

"(5) prescribe prototype qualification and performance standards, developed in conjunction with State approving agencies, for use by such agencies in the development of qualification and performance standards for State approving agency personnel

carrying out approval responsibilities under a contract or agreement entered into under section 1774(a).

"(b)(1) Each State approving agency carrying out a contract or agreement with the Administrator under section 1774(a) after the 18-month period beginning on the date of the enactment of this section shall— Contracts.

"(A) apply qualification and performance standards based on the standards developed under subsection (a)(5) of this section; and

"(B) make available to any person, upon request, the criteria used to carry out its functions under a contract or agreement entered into under section 1774(a).

"(2) In developing and applying standards described in subsection (a)(5) of this section, the State approving agency may take into consideration the State's merit system requirements and other local requirements and conditions.

"(3) The Administrator shall provide assistance in developing such standards to a State approving agency that requests it."; and

(B) by inserting after the item for section 1774 in the table of sections for such subchapter the following:

"1774A. Evaluations of agency performance; qualifications and performance of agency personnel".

(2) For purposes of implementing the amendments made by paragraph (1)— 38 USC 1774A note.

(A) the Administrator of Veterans' Affairs shall, within 120 days after the date of the enactment of this Act, publish prototype standards developed under section 1774A(a)(5) of title 38, United States Code, as added by paragraph (1);

(B) each State approving agency shall, within 1 year after the Administrator has published prototype standards under subparagraph (A), submit to the Administrator of Veterans' Affairs a copy of the standards to be implemented by such agency under section 1774A(b)(1)(A) of such title; and

(C) the Administrator may, within 30 days after receiving such standards from an agency, provide comments to the agency, especially with regard to whether the State's standards are consistent with the prototype standards developed by the Administrator under section 1774A(a)(5) of such title.

(3) None of the qualification standards implemented pursuant to the amendments made by paragraph (1) shall apply to any person employed by a State approving agency on the date of the enactment of this Act as long as such person remains in the position in which the person is employed on such date. 38 USC 1774A note.

(4) Section 1771(b)(1) is amended by striking out "approving agency," the first place it appears and inserting in lieu thereof "approving agency, or fails to enter into an agreement under section 1774(a),". Contracts.

(5) Section 1774(a)(1), as amended by subsection (a)(1) of this section, is amended—

(A) by striking out "chapters 34 and 35 of this title" the first place it appears in the first sentence and inserting in lieu thereof "chapters 30 through 35 of this title and chapters 106 and 107 of title 10";

(B) by striking out "chapters 34 and 35 of this title" the second place it appears in the first sentence and where it apppears in the second sentence and inserting in lieu thereof "such chapters"; and

(C) by striking out "chapter 32, 34, 35, or 36 of this title" in the third sentence and inserting in lieu thereof "such chapters". 102 STAT. 574

(6) Section 1782 is amended by striking out "No" in the first sentence and inserting in lieu thereof "Except as provided in section 1774A of this title, no". 102 STAT. 573

SEC. 14. COMMISSION ON VETERANS' EDUCATION POLICY.

38 USC 1792 note.

Section 320(a)(3) of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99-576; 100 Stat. 3248) is amended by inserting "the Assistant Secretary of Defense for Force Management and Personnel," after "paragraph (2)(A),".

SEC. 15. REVISIONS OF NOMENCLATURE.

(a) SECRETARY OF LABOR.—(1) Section 2001 is amended by adding at the end the following new paragraph:

"(8) The term 'Secretary' means the Secretary of Labor.".

(2) Sections 2002A, 2003 (a) and (b)(2), 2005, 2006(a), 2007, 2008, and 2010(b) are amended by striking out "Secretary of Labor" each place it appears except where preceded by "Assistant" and inserting in lieu thereof "Secretary".

(3) The first sentence of section 2010(b) is amended by striking out "The" and inserting in lieu thereof "Notwithstanding section 2002A(b) of this title, the".

(b) ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.—(1) Sections 2000(2), 2002, 2002A, and 2010(b) are amended by inserting "and Training" after "Assistant Secretary of Labor for Veterans' Employment" each place it appears.

29 USC 1721 note.

(2) Section 4(b) of the Veterans' Job Training Act is amended by inserting "and Training" after "Assistant Secretary of Labor for Veterans' Employment".

(c) DIRECTORS FOR VETERANS' EMPLOYMENT AND TRAINING.—(1) Sections 2003 and 2003A(b)(2) are amended by striking out "State Director for Veterans' Employment", "State Directors for Veterans' Employment", "Assistant State Director for Veterans' Employment" and "Assistant State Directors for Veterans' Employment" each place those terms appear and inserting in lieu thereof "Director for Veterans' Employment and Training", "Directors for Veterans' Employment and Training", "Assistant Director for Veterans' Employment and Training", and "Assistant Directors for Veterans' Employment and Training", respectively.

29 USC 1721 note.

(2) Section 15(c)(2) of the Veterans Job Training Act is amended by striking out "State and Assistant State Directors for Veterans' Employment" and inserting in lieu thereof "Directors and Assistant Directors for Veterans' Employment and Training".

(3)(A) The heading of section 2003 is amended to read as follows:

"§ 2003. Directors and Assistant Directors for Veterans' Employment and Training".

(B) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2003. Directors and Assistant Directors for Veterans' Employment and Training.".

(d) VETERANS' EMPLOYMENT AND TRAINING SERVICE.—Section 2002 is amended by striking out "Veterans Employment Service" and inserting in lieu thereof "Veterans' Employment and Training Service".

102 STAT. 575

38 USC 1504 note.

SEC. 16. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of and amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) EXCEPTIONS.—(1) The following provisions of or amendments made by this Act shall take effect for all of fiscal year 1988 and subsequent fiscal years:

(A) Clause (5) of subsection (b) of section 2002A of title 38, United States Code, as added by section 2(a)(2) of this Act.

(B) Subsection (a) of section 2003A of such title, as amended by section 2(e)(1)(A) of this Act.

(C) Paragraphs (1), (2), and (3) of section 2004(a) of such title, as amended by section 3(a) of this Act.

(D) Paragraphs (2) through (5) of section 1774(a) of such title, as added by section 13(a)(1) of this Act.

(2) The provisions of and amendments made by sections 4 through 11 shall take effect on the 60th day after the date of the enactment of this Act.

Approved May 20, 1988.

LEGISLATIVE HISTORY—S. 999 (H.R. 1504):

HOUSE REPORTS: No. 100-192 accompanying H.R. 1504 (Comm. on Veterans' Affairs).
SENATE REPORTS: No. 100-128 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): June 29, 30, H.R. 1504 considered and passed House.
Aug. 4, considered and passed Senate, amended, in lieu of S. 999.
Dec. 19, S. 999 considered and passed Senate.
Vol. 134 (1988): Apr. 27, considered and passed House, amended.
Apr. 28, Senate concurred in House amendments.

Public Law 100-527
100th Congress

102 STAT. 2635

An Act

To establish the Veterans' Administration as an executive department, and for other purposes.

Oct. 25, 1988
[H.R. 3471]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of Veterans Affairs Act.
Government organization and employees.
38 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Act".

38 USC 201 note.

SEC. 2. ESTABLISHMENT OF VETERANS' ADMINISTRATION AS AN EXECUTIVE DEPARTMENT.

The Veterans' Administration is hereby redesignated as the Department of Veterans Affairs and shall be an executive department in the executive branch of the Government. There shall be at the head of the Department a Secretary of Veterans Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

President of U.S.

SEC. 3. PRINCIPAL OFFICERS.

38 USC 201 note.

(a) DEPUTY SECRETARY.—There shall be in the Department of Veterans Affairs a Deputy Secretary of Veterans Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such functions as the Secretary shall prescribe.

President of U.S.

(b) CHIEF MEDICAL DIRECTOR.—(1) There shall be in the Department a Chief Medical Director, who shall be a doctor of medicine and shall, subject to subsection (f), be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation or activity and solely on the basis of integrity and demonstrated ability in the medical profession, in health-care administration and policy formulation, and in health-care fiscal management, and on the basis of substantial experience in connection with the programs of the Veterans Health Services and Research Administration or programs of similar content and scope. The Chief Medical Director shall be the head of, and shall be directly responsible to the Secretary for the operations of, the Veterans Health Services and Research Administration. The Chief

President of U.S.

(iii) Two persons who have experience in the management of veterans benefits programs or programs of similar content and scope. 102 STAT. 2637

(iv) The Deputy Secretary of Veterans Affairs.

(v) The Chairman of the Veterans' Advisory Committee on Education formed under section 1792 of title 38, United States Code.

(vi) One person who has held the position of Chief Benefits Director, if the Secretary determines that it is desirable for such person to be a member of the Commission.

(C) A commission established under this paragraph shall recommend at least three individuals for appointment to the position of Chief Benefits Director. Such commission shall submit all recommendations to the Secretary. The Secretary shall forward such recommendations to the President with any comments the Secretary considers appropriate. Thereafter, the President may request such commission to recommend additional individuals for appointment.

(D) The Assistant Secretary or Deputy Assistant Secretary of Veterans Affairs who performs personnel management and labor relations functions shall serve as the executive secretary of a commission established under this paragraph.

(d) DIRECTOR OF NATIONAL CEMETERY SYSTEM.—There shall be in the Department of Veterans Affairs a Director of the National Cemetery System, who—

(1) shall be appointed by the President, by and with the advice and consent of the Senate; President of U.S.

(2) shall serve as the head of the National Cemetery System provided for in section 1000 of title 38, United States Code; and

(3) shall perform such functions as may be assigned by the Secretary.

(e) CONTINUATION OF SERVICE OF ADMINISTRATOR AND DEPUTY ADMINISTRATOR.—The individuals serving as Administrator and Deputy Administrator of Veterans' Affairs on the effective date of this Act may act as Secretary and Deputy Secretary of the Department, respectively, until the date an individual is appointed under this Act to the office concerned, or until the end of the 120-day period provided for in section 3348 of title 5, United States Code (relating to limitations on the period of time a vacancy may be filled temporarily), whichever is earlier.

(f) CONTINUATION OF SERVICE OF CHIEF MEDICAL DIRECTOR.—The individual serving as Chief Medical Director on the effective date of this Act may continue to serve in that capacity until the expiration of the term prescribed by section 4103(b)(1) of title 38, United States Code, unless removed by the Secretary of Veterans Affairs for cause in accordance with section 4103(b)(3) of such title.

(g) CONTINUATION OF SERVICE OF CHIEF BENEFITS DIRECTOR.—The individual serving as Chief Benefits Director on the effective date of this Act may continue to serve in that capacity until an individual is appointed under this Act to that office.

(h) CONTINUATION OF SERVICE OF DIRECTOR, NATIONAL CEMETERY SYSTEM.—The individual serving as Director, National Cemetery System on the effective date of this Act may act as the Director of the National Cemetery System until an individual is appointed under this Act to that office. 102 STAT. 2638

SEC. 4. ASSISTANT SECRETARIES. 38 USC 201 note.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department of Veterans Affairs not more than 6 Assistant Secretaries, each of whom shall be appointed by the President, by and with the advice and consent of the Senate. President of U.S.

(b) FUNCTIONS OF ASSISTANT SECRETARIES.—The Secretary shall assign to Assistant Secretaries such functions as the Secretary considers appropriate, including the following functions:

(C) report to the Secretary as required by section 3506 of title 44, United States Code. Reports.

(e) DESIGNATION OF FUNCTIONS PRIOR TO CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as Assistant Secretary under this section, the President shall state the particular functions of the Department such individual will exercise upon taking office. President of U.S.

(f) CONTINUING PERFORMANCE OF ASSISTANT SECRETARY FUNCTIONS PENDING CONFIRMATION.—An individual who, on the effective date of this Act, is performing any of the functions required by this section to be performed by an Assistant Secretary of the Department may continue to perform such functions until such functions are assigned to an individual appointed under this Act as an Assistant Secretary of the Department.

SEC. 5. DEPUTY ASSISTANT SECRETARIES. 38 USC 201 note.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department of Veterans Affairs such number of Deputy Assistant Secretaries, not exceeding 18, as the Secretary may determine.

(b) APPOINTMENTS.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) MINIMUM NUMBER OF DEPUTY ASSISTANT SECRETARIES WITH CONTINUOUS SERVICE IN CIVIL SERVICE.—(1) At least two-thirds of the number of positions established under subsection (a) and filled under subsection (b) shall be filled by individuals who have at least 5 years of continuous service in the Federal civil service in the executive branch immediately preceding their appointment under subsection (b) as a Deputy Assistant Secretary.

(2) For purposes of determining the continuous service of an individual pursuant to paragraph (1), there shall not be included any service by such individual in a position—

(A) of a confidential, policy-determining, policy-making, or policy-advocating character;

(B) in which such individual served as a noncareer appointee in the Senior Executive Service, as such term is defined in section 3132(a)(7) of title 5, United States Code; or

(C) to which such individual was appointed by the President, with or without the advice and consent of the Senate.

102 STAT. 2640

SEC. 6. VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION. 38 USC 201 note.

The establishment within the Veterans' Administration known as the Department of Medicine and Surgery is hereby redesignated as the Veterans Health Services and Research Administration of the Department of Veterans Affairs.

SEC. 7. VETERANS BENEFITS ADMINISTRATION. 38 USC 201 note.

The establishment within the Veterans' Administration known as the Department of Veterans' Benefits is hereby redesignated as the Veterans Benefits Administration of the Department of Veterans Affairs. The primary function of the Veterans Benefits Administration shall be to administer nonmedical benefits programs which provide assistance to veterans, their dependents, and their survivors.

SEC. 8. OFFICE OF THE GENERAL COUNSEL. 38 USC 201 note.

(a) IN GENERAL.—There shall be in the Department of Veterans Affairs the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department. President of U.S.

(b) CONTINUATION OF SERVICE OF GENERAL COUNSEL.—The individual serving on the effective date of this Act as the General Counsel of the Veterans' Administration may act as the General Counsel of

the Department of Veterans Affairs until a person is appointed under this Act to that office.

38 USC 201 note.

SEC. 9. OFFICE OF THE INSPECTOR GENERAL.

(a) REDESIGNATION.—The Office of Inspector General of the Veterans' Administration, established in accordance with the Inspector General Act of 1978, is hereby redesignated as the Office of Inspector General of the Department of Veterans Affairs.

(b) STAFF LEVEL.—(1) The Secretary shall provide for not less than 40 full-time positions in the Office of Inspector General in addition to the number of such positions in that office on the effective date of this Act.

(2) Of the number of additional full-time positions in the Office of Inspector General required by paragraph (1), the Secretary shall provide for one-half by not later than September 30, 1990, and shall provide for the remainder by not later than September 30, 1991.

President of U.S.

(3) The President shall include in the budget transmitted to the Congress for each fiscal year after fiscal year 1989 pursuant to section 1105 of title 31, United States Code, an estimate of the amount for the Office of Inspector General that is sufficient to provide for not less than the number of full-time positions in that office on the effective date of this Act and the additional number of such positions required by paragraph (1) to be provided for by the Secretary.

38 USC 201 note.

SEC. 10. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Veterans' Administration—

102 STAT. 2641

(1) to the Administrator of Veterans' Affairs shall be deemed to refer to the Secretary of Veterans Affairs;

(2) to the Veterans' Administration shall be deemed to refer to the Department of Veterans Affairs;

(3) to the Deputy Administrator of Veterans' Affairs shall be deemed to refer to the Deputy Secretary of Veterans Affairs;

(4) to the Chief Medical Director of the Veterans' Administration shall be deemed to refer to the Chief Medical Director of the Department of Veterans Affairs;

(5) to the Department of Medicine and Surgery of the Veterans' Administration shall be deemed to refer to the Veterans Health Services and Research Administration of the Department of Veterans Affairs;

(6) to the Chief Benefits Director of the Veterans' Administration shall be deemed to refer to the Chief Benefits Director of the Department of Veterans Affairs;

(7) to the Department of Veterans' Benefits of the Veterans' Administration shall be deemed to refer to the Veterans Benefits Administration of the Department of Veterans Affairs;

(8) to the Chief Memorial Affairs Director of the Veterans' Administration shall be deemed to refer to the Director of the National Cemetery System of the Department of Veterans Affairs; and

(9) to the Department of Memorial Affairs of the Veterans' Administration shall be deemed to refer to the National Cemetery System of the Department of Veterans Affairs.

38 USC 201 note.

SEC. 11. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of Veterans' Affairs, or by a court of competent jurisdiction, in the performance of functions of the Administrator or the Veterans' Administration; and

(2) which are in effect on the effective date of this Act; shall continue in effect according to their terms until modified,

(1) Budgetary and financial functions.
(2) Personnel management and labor relations functions.
(3) Planning, studies, and evaluations.
(4) Management, productivity, and logistic support functions.
(5) Information management functions as required by section 3506 of title 44, United States Code.
(6) Capital facilities and real property program functions.
(7) Equal opportunity functions.
(8) Functions regarding the investigation and adjudication of complaints of employment discrimination within the Department.
(9) Functions regarding intergovernmental, public, and consumer information and affairs.
(10) Procurement functions.

(c) CHIEF FINANCIAL OFFICER.—(1) The Secretary shall designate the Assistant Secretary whose functions include budgetary and financial functions as the Chief Financial Officer of the Department.

(2) The Chief Financial Officer shall—
(A) advise the Secretary on financial management of the Department;
(B) develop and maintain a financial management system for the Department (including accounting and related transaction systems, internal control systems, and financial reporting systems) which provides for—
(i) development and maintenance of consistent, compatible, and useful data;
(ii) development and reporting of cost information; and
(iii) integration of accounting and budgeting information;
(C) supervise and coordinate all financial management system activities and operations of the Department; and
(D) direct and manage financial management activities and operations of the Department, including—
(i) the development of financial management budgets; and
(ii) the approval and management of financial management system design or enhancement projects.

(d) CHIEF INFORMATION RESOURCES OFFICER.—(1) The Secretary shall designate the Assistant Secretary whose functions include information management functions as required by section 3506 of title 44, United States Code, as the Chief Information Resources Officer of the Department.

(2) The Chief Information Resources Officer shall—
(A) advise the Secretary on information management activities of the Department as required by section 3506 of title 44, United States Code;
(B) develop and maintain an information resources management system for the Department which provides for—

102 STAT. 2639

(i) the conduct of and accountability for any acquisitions made pursuant to a delegation of authority under section 759 of title 40, United States Code;
(ii) the implementation of all applicable government-wide and Department information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;
(iii) the periodic evaluation of and, as needed, the planning and implementation of improvements in the accuracy, completeness, and reliability of data and records contained within Department information systems; and
(iv) the development and annual revision of a five-year plan for meeting the Department's information technology needs; and

terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this Act shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending before the Veterans' Administration at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this Act shall not affect suits commenced before the effective date of this Act, and in all such suits, proceedings shall be had, appeals taken, and judg- 102 STAT. 2642
ments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Veterans' Administration, or by or against any individual in the official capacity of such individual as an officer of the Veterans' Administration, shall abate by reason of the enactment of this Act.

(e) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Veterans' Administration shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department of Veterans Affairs.

(f) COMPENSATION FOR CONTINUED SERVICE.—Any person—

(1) who acts as Secretary or Deputy Secretary of the Department of Veterans Affairs under section 3(e);

(2) who continues to serve as Chief Medical Director or Chief Benefits Director of such department under section 3 (f) or (g), respectively;

(3) who acts as the Director of the National Cemetery System under section 3(h); or

(4) who acts as General Counsel of the Department of Veterans Affairs under section 8(b);

after the effective date of this Act and before the first appointment of a person to such position after such date shall continue to be compensated for so serving or acting at the rate at which such person was compensated before the effective date of this Act.

SEC. 12. MISCELLANEOUS EMPLOYMENT RESTRICTIONS. 38 USC 201 note.

(a) LIMITATION ON NUMBER OF NONCAREER SENIOR EXECUTIVES.—(1) Notwithstanding section 3134(d) of title 5, United States Code, the number of Senior Executive Service positions in the Department of Veterans Affairs which are filled by noncareer appointees in any fiscal year may not at any time exceed 5 percent of the average number of senior executives employed in Senior Executive Service positions in the Department during the preceding fiscal year.

(2) For purposes of this subsection, the average number of senior executives employed in Senior Executive Service positions in the Department during a fiscal year shall be equal to 25 percent of the sum of the total number of senior executives employed in Senior Executive Service positions in the Department on the last day of each quarter of such fiscal year.

(b) LIMITATION ON NUMBER OF SCHEDULE C EMPLOYEES.—The number of positions in the Department of Veterans Affairs which may be excepted from the competitive service, on a temporary or

permanent basis, because of their confidential or policy-determining character may not at any time exceed the equivalent of 15 positions.

(c) PROHIBITED EMPLOYMENT AND ADVANCEMENT CONSIDERATIONS.—(1) Political affiliation or activity may not be taken into account in connection with the appointment of any person to any position in or to perform any service for the Department of Veterans Affairs, or in the assignment or advancement of any employee in the Department.

(2) Paragraph (1) shall not apply to the appointment of any person by the President under this Act, other than the appointment of the Chief Medical Director, the Chief Benefits Director, and the Inspector General of the Department of Veterans Affairs.

102 STAT. 2643

SEC. 13. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end thereof the following: ", Secretary of Veterans Affairs".

(b) DEFINITION OF DEPARTMENT, CIVIL SERVICE LAWS.—Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Veterans Affairs.".

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Secretary of Veterans Affairs.".

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Deputy Secretary of Veterans Affairs".

(e) COMPENSATION, LEVEL III.—Section 5314 of title 5, United States Code, is amended—

(1) by striking out "Deputy Administrator of Veterans' Affairs."; and

(2) by adding at the end thereof the following:

"Chief Medical Director, Department of Veterans Affairs.

"Chief Benefits Director, Department of Veterans Affairs.".

(f) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Inspector General, Veterans' Administration" and inserting in lieu thereof "Inspector General, Department of Veterans Affairs"; and

(2) by adding at the end thereof the following:

"Assistant Secretaries, Department of Veterans Affairs (6).

"General Counsel, Department of Veterans Affairs.

"Director of the National Cemetery System.".

(g) COMPENSATION, LEVEL V.—Section 5316 of title 5, United States Code, is amended—

(1) by striking out "Associate Deputy Administrator of Veterans' Affairs.";

(2) by striking out "Chief Benefits Director, Veterans' Administration.";

(3) by striking out "General Counsel of the Veterans' Administration."; and

(4) by striking out "Director, National Cemetery System, Veterans' Administration.".

(h) INSPECTOR GENERAL ACT.—The Inspector General Act of 1978 is amended—

5 USC app.

(1) in section 2(1)—

(A) by inserting "the Department of Veterans Affairs," after "Transportation,"; and

(B) by striking out "the Veterans' Administration,";

5 USC app.

(2) in section 11(1)—

(A) by striking out "or Transportation" and inserting in lieu thereof "Transportation, or Veterans' Affairs,"; and

(B) by striking out "Small Business, or Veterans' Affairs" and inserting in lieu thereof "or Small Business"; and

(3) in section 11(2)—

(A) by striking out "or Transportation" and inserting in lieu thereof "Transportation, or Veterans Affairs,"; and 102 STAT. 2644

(B) by striking out "the United States Information Agency or the Veterans' Administration" and inserting in lieu thereof "or the United States Information Agency".

(i) NATIONAL CEMETERY SYSTEM.—Section 1000 of title 38, United States Code, is amended in subsection (a) by striking out the second sentence and inserting in lieu thereof the following: "Such system shall be headed by the Director of the National Cemetery System, who shall perform such functions as may be assigned by the Secretary.".

SEC. 14. ADDITIONAL CONFORMING AMENDMENTS. 38 USC 201 note.

After consultation with the appropriate committees of the Congress, the Secretary of Veterans Affairs shall prepare and submit to the Congress proposed legislation containing technical and conforming amendments to title 38, United States Code, and to other provisions of law, which reflect the changes made by this Act. Such legislation shall be submitted not later than 6 months after the date of enactment of this Act.

SEC. 15. ADMINISTRATIVE REORGANIZATIONS.

(a) MODIFICATIONS OF COVERAGE.—Section 210(b)(2) of title 38, United States Code, is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) An administrative reorganization described in this subparagraph is an administrative reorganization of—

"(i) a covered field office or facility which involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such office or facility—

"(I) by 10 percent or more, or

"(II) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty stations at such office or facility during the preceding fiscal year, is 15 percent or more; or

"(ii) a covered Central Office unit which involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such unit—

"(I) by 25 percent or more, or

"(II) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty stations at such unit during the preceding fiscal year, is 30 percent or more.";

(2) in subparagraph (C)—

(A) by striking out "(C) For" and inserting in lieu thereof "(D) For";

(B) by redesignating division (iii) as division (iv); and

(C) by striking out division (ii) and inserting in lieu thereof the following new divisions:

"(ii) The term 'covered Central Office unit' means an office in the Veterans' Administration's Central Office that is the permanent duty station for 100 or more employees.

"(iii) The term 'covered field office or facility' means a Veterans' Administration office or facility outside the Veterans' Administration Central Office that is the permanent duty station for 25 or more employees or that is a free-standing outpatient clinic."; and 102 STAT. 2645

(3) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) Not less than 30 days before the date on which the implementation of any reorganization described in this subparagraph is to begin, the Administrator shall transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a notification regarding the reorganization. This subparagraph ap-

plies to the reorganization of any unit of the Central Office of the Veterans' Administration that is the duty station for more than 25 but less than 100 employees if the reorganization involves a reduction in any fiscal year in the number of full-time equivalent employees with permanent duty station in such unit—

"(i) by 10 percent or more, or

"(ii) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty station in such unit during the preceding fiscal year, is 15 percent or more.".

38 USC 210 note.

(b) INAPPLICABILITY OF RESTRICTIONS.—Section 210(b) of title 38, United States Code (as amended by subsection (a)), shall not apply to a reorganization of a unit of the Central Office of the Department of Veterans' Affairs if the reorganization—

(1) is necessary in order to carry out the provisions of or amendments made by this Act; and

(2) is initiated within 6 months after the effective date of this Act.

38 USC 210 note.

(c) CONSTRUCTION.—References to the Administrator of Veterans' Affairs and the Veterans' Administration are used in the amendments made by subsection (a) in order to maintain conformity with the references appearing in the provisions of section 210 of title 38, United States Code, that are not amended by subsection (a). The references appearing in such amendments are subject to the reference rules provided in section 10 of this Act.

38 USC 201 note.

SEC. 16. SPENDING AUTHORITY SUBJECT TO APPROPRIATIONS.

The authority to make payments or to enter into other obligations under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

5 USC 901 note.

SEC. 17. NATIONAL COMMISSION ON EXECUTIVE ORGANIZATION.

President of U.S.

(a) ESTABLISHMENT.—(1) Within 30 days after the effective date of this Act, the President shall make a determination as to whether the national interest would be served by the establishment of a commission to review the structural organization of the executive branch of the Federal Government. If the President makes a determination that such establishment is in the national interest, the President shall transmit to the Congress written notification of his intent to establish the National Commission on Executive Organization under this section.

Termination date.

(2) If the President fails to transmit notification under paragraph (1), this section shall cease to be effective 30 days after the effective date of this Act.

(b) MEMBERSHIP OF THE COMMISSION.—A commission established under this section shall be composed of 16 members appointed not later than 90 days after the effective date of this Act. The members shall be appointed as follows:

President of U.S.

(1) Six citizens of the United States appointed by the President, one of whom shall be designated by the President to be the Chairman of the Commission. Not more than four of the members appointed by the President may be from the same political party as the President.

102 STAT. 2646

(2) Two members of the Senate and one citizen of the United States appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate.

(3) One Member of the Senate and one citizen of the United States appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(4) Two members of the House of Representatives and one citizen of the United States appointed by the Speaker of the House of Representatives upon the recommendation of the majority leader of the House of Representatives.

(5) One Member of the House of Representatives and one citizen of the United States appointed by the Speaker of the House of Representatives upon the recommendation of the minority leader of the House of Representatives.

may be specified by the Board. The Board, upon its own motion or the request of either party, may review such a fee agreement and may order a reduction in the fee called for in the agreement if the Board finds that the fee is excessive or unreasonable. A finding or order of the Board under the preceding sentence may be reviewed by the United States Court of Veterans Appeals under section 4063(d) of this title.

"(d)(1) When a claimant and an attorney have entered into a fee agreement described in paragraph (2) of this subsection, the total fee payable to the attorney may not exceed 20 percent of the total amount of any past-due benefits awarded on the basis of the claim.

"(2)(A) A fee agreement referred to in paragraph (1) of this subsection is one under which (i) the amount of the fee payable to the attorney is to be paid to the attorney by the Administrator directly from any past-due benefits awarded on the basis of the claim, and (ii) the amount of the fee is contingent on whether or not the matter is resolved in a manner favorable to the claimant.

"(B) For purposes of subparagraph (A) of this paragraph, a claim shall be considered to have been resolved in a manner favorable to the claimant if all or any part of the relief sought is granted.

"(3) To the extent that past-due benefits are awarded in any proceeding before the Administrator, the Board of Veterans' Appeals, or the United States Court of Veterans Appeals, the Administrator may direct that payment of any attorneys' fee under a fee arrangement described in paragraph (1) of this subsection be made
102 STAT. 4109 out of such past-due benefits. In no event may the Administrator withhold for the purpose of such payment any portion of benefits payable for a period after the date of the final decision of the Administrator, the Board of Veterans' Appeals, or Court of Veterans Appeals making (or ordering the making of) the award.".

(b) VIOLATION TO BE A MISDEMEANOR.—Section 3405 of such title is amended by striking out "shall be fined not more than $500 or imprisoned at hard labor for not more than two years, or both" and inserting in lieu thereof "shall be fined as provided in title 18, or imprisoned not more than one year, or both".

TITLE II—BOARD OF VETERANS' APPEALS

SEC. 201. APPOINTMENT AND REMOVAL OF THE CHAIRMAN AND MEMBERS.

(a) IN GENERAL.—Subsection (b) of section 4001 is amended to read as follows:

President of U.S. "(b)(1) The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, for a term of six years. The Chairman may be removed by the President for misconduct, inefficiency, neglect of duty, or engaging in the practice of law or for physical or mental disability which, in the opinion of the President, prevents the proper execution of the Chairman's duties. The Chairman may not be removed from office by the President on any other grounds. Any such removal may only be made after notice and opportunity for hearing.

"(2)(A) The other members of the Board (including the Vice Chairman) shall be appointed by the Administrator, with the approval of the President, based upon recommendations of the Chairman. Each such member shall be appointed for a term of nine years.

"(B) A member of the Board (other than the Chairman) may be removed by the Administrator upon the recommendation of the Chairman. In the case of a removal that would be covered by section 7521 of title 5 in the case of an administrative law judge, a removal of a member of the Board under this paragraph shall be carried out subject to the same requirements as apply to removal of an administrative law judge under that section. Section 554(a)(2) of title 5 shall

(c) RESTRICTIONS ON PAY AND ALLOWANCES.—(1) Except as provided in paragraph (2), members of the Commission shall receive no pay, allowances, or benefits by reason of service on the Commission.

(2) Members of the Commission appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the Federal Government.

(d) FUNCTIONS OF COMMISSION.—The Commission shall examine and make recommendations with respect to—

(1) criteria for use by the President and Congress in evaluating proposals for changes in the structure of the executive branch of the Federal Government, including criteria for use by the President and Congress in evaluating and overseeing Government-sponsored enterprises and Government corporations;

(2) the organization of the executive branch, including the number of departments and the organizational structure of each such department, the advisability of reorganizing or abolishing any such department, and the advisability of establishing any new executive department;

(3) the most effective and practicable structure of the Executive Office of the President for conducting oversight of the executive branch, and criteria for use by such Office in evaluating and overseeing the performance of the executive branch; and

(4) the most effective and practicable structure of the President's cabinet and means of operation of such cabinet, including recommendations concerning the number, composition, and duties of the members of such cabinet.

(e) REPORT.—(1) Not later than 12 months after the completion of appointment of the members of the Commission, the Commission shall submit to the President, the Senate, and the House of Representatives a report which contains a detailed statement of the recommendations of the Commission.

(2) The date on which the report is due may be extended to such date as the President may prescribe in an Executive order, except that such date may not be later than six months after the date on which such report is otherwise due under paragraph (1).

(f) POWERS OF COMMISSION.—(1) The Commission may, for the purpose of carrying out this section, hold such hearings and sit and act at such times and places, as the Commission considers appropriate. 102 STAT. 2647

(2) The Commission may adopt such rules and regulations as may be necessary to establish procedures and to govern the manner of the operation, organization, and personnel of the Commission.

(3)(A) The Commission may request from the head of any department, agency, or other instrumentality of the Federal Government such information as the Commission may require for the purpose of carrying out this section. The head of such department, agency, or instrumentality shall, to the extent otherwise permitted by law, furnish such information to the Commission upon request made by the Chairman.

(B) Upon request of the Chairman of the Commission, the head of any department, agency, or other instrumentality of the Federal Government shall, to the extent possible and subject to the discretion of such head—

(i) make any of the facilities and services of such department, agency, or instrumentality available to the Commission; and

(ii) detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out the duties of the Commission under this section.

(4) The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

(5) The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with State

agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge the duties of the Commission under this section.

(6) Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission may appoint, terminate, and fix the pay of an Executive Director and of such additional staff as the Chairman considers appropriate to assist the Commission. The Chairman may fix the pay of personnel appointed under this paragraph without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code (relating to the number or classification of employees and to rates of pay), the provisions of such title governing appointments in the competitive service, and any other similar provision of law; except that no rate of pay fixed under this paragraph may exceed a rate equal to the rate of pay payable for grade GS-18 of the General Schedule under section 5332 of such title.

(g) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Commission shall be an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App. 2).

(h) TERMINATION OF COMMISSION.—The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits the report required under subsection (e).

(i) PREPARATION FOR THE COMMISSION.—Not later than 90 days after the effective date of this Act, the Comptroller General of the United States, the Director of the Congressional Research Service, the Director of the Congressional Budget Office, and the Director of the Office of Technology Assessment shall each submit to the Commission established under this section an index to and synopses of materials of the organization of the official that such official considers useful to the Commission. Subject to laws governing the disclosure of classified or otherwise restricted information, such materials may include reports, analyses, recommendations, and results of research of such organization.

Classified information.

102 STAT. 2648

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission not more than $1,500,000 for carrying out this section.

38 USC 201 note.

SEC. 18. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect on March 15, 1989.

(b) APPOINTMENT OF SECRETARY.—Notwithstanding any other provision of law or of this Act, the President may, any time after January 21, 1989, appoint an individual to serve as Secretary of the Department of Veterans Affairs.

Approved October 25, 1988.

LEGISLATIVE HISTORY—H.R. 3471 (S. 533):

HOUSE REPORTS: No. 100-435 (Comm. on Government Operations) and No. 100-1036 (Comm. of Conference).
SENATE REPORTS: No. 100-342 accompanying S. 533 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Nov. 16, 17, considered and passed House.
Vol. 134 (1988): July 11, S. 533 considered in Senate.
July 12, H.R. 3471 considered and passed Senate, amended, in lieu of S. 533.
Oct. 6, House agreed to conference report.
Oct. 18, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Oct. 25, Presidential remarks.

Public Law 100-687
100th Congress

102 STAT. 4105

An Act

To amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to establish a Court of Veterans' Appeals and to provide for judicial review of certain final decisions of the Board of Veterans' Appeals; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; to increase the rates of compensation payable to veterans with service-connected disabilities; and to make various improvements in veterans' health, rehabilitation, and memorial affairs programs; and for other purposes.

Nov. 18, 1988
[S. 11]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DIVISION A—VETERANS' JUDICIAL REVIEW

Veterans' Judicial Review Act.

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

38 USC 101 note.

(a) SHORT TITLE.—This division may be cited as the "Veterans' Judicial Review Act".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—ADJUDICATIVE AND RULEMAKING AUTHORITY OF THE VETERANS' ADMINISTRATION

SEC. 101. DECISIONS BY ADMINISTRATOR.

(a) MATTERS TO BE DECIDED BY ADMINISTRATOR.—Subsection (a) of section 211 is amended to read as follows:

"(a)(1) The Administrator shall decide all questions of law and fact necessary to a decision by the Administrator under a law that affects the provision of benefits by the Administrator to veterans or the dependents or survivors of veterans. Subject to paragraph (2) of this subsection, the decision of the Administrator as to any such question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise.

"(2) The second sentence of paragraph (1) of this subsection does not apply to—

"(A) matters subject to section 223 of this title;

"(B) matters covered by sections 775 and 784 of this title;

"(C) matters arising under chapter 37 of this title; and

102 STAT. 4106

"(D) matters covered by chapter 72 of this title.".

(b) CONFORMING AMENDMENT.—Section 4004(a) is amended by striking out "All questions on claims involving benefits under laws administered by the Veterans' Administration" and inserting in lieu thereof "All questions in a matter which under section 211(a) of this title is subject to decision by the Administrator".

SEC. 102. VETERANS' ADMINISTRATION RULEMAKING.

(a) APA PROCEDURES.—(1) Chapter 3 is amended by inserting after section 222 the following new section:

"§ 223. Rulemaking: procedures and judicial review

"(a) In applying section 552(a)(1) of title 5 to the Veterans' Administration, the Administrator shall ensure that subparagraphs

(C), (D), and (E) of that section are complied with, particularly with respect to opinions and interpretations of the General Counsel.

"(b) The provisions of section 553 of title 5 shall apply, without regard to subsection (a)(2) of that section, to matters relating to loans, grants, or benefits under a law administered by the Administrator.

"(c) An action of the Administrator to which section 552(a)(1) or 553 of title 5 (or both) refers (other than an action relating to the adoption or revision of the schedule of ratings for disabilities adopted under section 355 of this title) is subject to judicial review. Such review shall be in accordance with chapter 7 of title 5 and may be sought only in the United States Court of Appeals for the Federal Circuit. However, if such review is sought in connection with an appeal brought under the provisions of chapter 72 of this title, the provisions of that chapter shall apply rather than the provisions of chapter 7 of title 5.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 222 the following new item:

"223. Rulemaking: procedures and judicial review.".

(b) REPORT ON IMPLEMENTATION.—Not later than May 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the implementation of section 223(a) of title 38, United States Code, as added by subsection (a)(1). Such report shall set forth the actions the Administrator is taking to ensure that such section is carried out.

SEC. 103. VETERANS' ADMINISTRATION ADJUDICATION PROCEDURES.

(a) IN GENERAL.—(1) Chapter 51 is amended by adding at the end of subchapter I the following new sections:

"§ 3007. Burden of proof; benefit of the doubt

"(a) Except when otherwise provided by the Administrator in accordance with the provisions of this title, a person who submits a claim for benefits under a law administered by the Veterans' Administration shall have the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded. The Administrator shall assist such a claimant in developing the facts pertinent to the claim. Such assistance shall include requesting information as described in section 3006 of this title.

"(b) When, after consideration of all evidence and material of record in a case before the Veterans' Administration with respect to benefits under laws administered by the Veterans' Administration, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of the matter, the benefit of the doubt in resolving each such issue shall be given to the claimant. Nothing in this subsection shall be construed as shifting from the claimant to the Administrator the burden specified in subsection (a) of this section.

102 STAT. 4107

"§ 3008. Reopening disallowed claims

"If new and material evidence is presented or secured with respect to a claim which has been disallowed, the Administrator shall reopen the claim and review the former disposition of the claim.".

"§ 3009. Independent medical opinions

"(a) When, in the judgment of the Administrator, expert medical opinion, in addition to that available within the Veterans' Administration, is warranted by the medical complexity or controversy involved in a case being considered by the Veterans' Administration, the Administrator may secure an advisory medical opinion from one or more independent medical experts who are not employees of the Veterans' Administration.

"(b) The Administrator shall make necessary arrangements with recognized medical schools, universities, or clinics to furnish such

advisory medical opinions. Any such arrangement shall provide that the actual selection of the expert or experts to give the advisory opinion in an individual case shall be made by an appropriate official of such institution.

"(c) The Administrator shall furnish a claimant with notice that an advisory medical opinion has been requested under this section with respect to the claimant's case and shall furnish the claimant with a copy of such opinion when it is received by the Administrator.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 3006 the following new items:

"3007. Burden of proof; benefit of the doubt.
"3008. Reopening disallowed claims.
"3009. Independent medical opinions.".

(b) CONFORMING AMENDMENTS.—Section 4009 is amended—

(1) in subsection (a), by striking out "is authorized to" and inserting in lieu thereof "may";

(2) in subsection (b)—

(A) by striking out "Such arrangement will" and inserting in lieu thereof "Any such arrangement shall"; and

(B) by striking out "any individual case will" and inserting in lieu thereof "an individual case shall"; and

(3) by adding at the end the following new subsection:

"(c) The Board shall furnish a claimant with notice that an advisory medical opinion has been requested under this section with respect to the claimant's case and shall furnish the claimant with a copy of such opinion when it is received by the Board.".

(c) TECHNICAL AMENDMENTS.—(1) The items relating to chapter 51 in the table of chapters before part I, and in the table of chapters at the beginning of part IV, are amended by striking out "Applications" and inserting in lieu thereof "Claims".

(2) The heading of chapter 51 is amended to read as follows:

102 STAT. 4108

"CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS".

(3) The item relating to subchapter I in the table of sections at the beginning of chapter 51 is amended by striking out "APPLICATIONS" and inserting in lieu thereof "CLAIMS".

(4) The heading of subchapter I of chapter 51 is amended to read as follows:

"SUBCHAPTER I—CLAIMS".

SEC. 104. ATTORNEYS FEES.

(a) REVISION OF ATTORNEY FEE LIMITATION.—Section 3404 of title 38, United States Code, is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) In connection with a proceeding before the Veterans' Administration with respect to benefits under laws administered by the Veterans' Administration, a fee may not be charged, allowed, or paid for services of agents and attorneys with respect to services provided before the date on which the Board of Veterans' Appeals first makes a final decision in the case. Such a fee may be charged, allowed, or paid in the case of services provided after such date only if an agent or attorney is retained with respect to such case before the end of the one-year period beginning on that date. The limitation in the preceding sentence does not apply to services provided with respect to proceedings before a court.

"(2) A person who, acting as agent or attorney in a case referred to in paragraph (1) of this subsection, represents a person before the Veterans' Administration or the Board of Veterans' Appeals after the Board first makes a final decision in the case shall file a copy of any fee agreement between them with the Board at such time as

not apply to a removal action under this subparagraph. In such a removal action, a member shall have the rights set out in section 7513(b) of such title.

"(3) Members (including the Chairman) may be appointed under this subsection to more than one term.

"(4) The Administrator shall designate one member of the Board as Vice Chairman. The Vice Chairman shall perform such functions as the Chairman may specify. Such member shall serve as Vice Chairman at the pleasure of the Administrator.".

(b) SALARY OF CHAIRMAN.—(1) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Chairman, Board of Veterans' Appeals.".

(2) The amendment made by paragraph (1) shall take effect when the President first appoints an individual as Chairman of the Board of Veterans' Appeals under section 4001(b)(1) of title 38, United States Code (as amended by subsection (a)). Effective date. 5 USC 5315 note.

(c) TRANSITION TO NEW BOARD.—(1) Appointments of members of the Board of Veterans' Appeals under subsection (b)(2) of section 4001 of title 38, United States Code (as amended by subsection (a)), may not be made until a Chairman is appointed under subsection (b)(1) of that section. 38 USC 4001 note.

102 STAT. 4110

(2) An individual who is serving as a member of the Board on the date of the enactment of this Act may continue to serve as a member until the earlier of—

(A) the date on which the individual's successor (as designated by the Administrator) is appointed under subsection (b)(2) of that section, or

(B) the end of the 180-day period beginning on the day after the date on which the Chairman is appointed under subsection (b)(1) of such section.

(d) INITIAL TERMS OF OFFICE.—Notwithstanding the second sentence of section 4001(b)(2) of title 38, United States Code (as amended by subsection (a)), specifying the term for which members of the Board of Veterans' Appeals shall be appointed, of the members first appointed under that section— 38 USC 4001 note.

(A) 22 shall be appointed for a term of three years;

(B) 22 shall be appointed for a term of six years; and

(C) 22 shall be appointed for a term of nine years,

as determined by the Administrator at the time of the initial appointments.

SEC. 202. DETERMINATIONS BY THE BOARD.

(a) MAJORITY VOTE IN SECTIONS.—Section 4003 is amended to read as follows:

"§ 4003. Determinations by the Board

"(a) Decisions by a section of the Board shall be made by a majority of the members of the section. The decision of the section is final unless the Chairman orders reconsideration of the case.

"(b) If the Chairman orders reconsideration in a case, the case shall upon reconsideration be heard by an expanded section of the Board. When a case is heard by an expanded section of the Board after such a motion for reconsideration, the decision of a majority of the members of the expanded section shall constitute the final decision of the Board.

"(c) Notwithstanding subsections (a) and (b) of this section, the Board on its own motion may correct an obvious error in the record.".

(b) RESOURCES TO DISPOSE OF APPEALS IN A TIMELY MANNER.—Section 4001(a) is amended—

(1) by inserting "and" after "Vice Chairman,";

(2) by striking out "necessary, and" and inserting in lieu thereof "necessary in order to conduct hearings and dispose of appeals properly before the Board in a timely manner. The Board shall have"; and

(3) by adding at the end the following new sentence: "The Board shall have sufficient personnel under the preceding sentence to enable the Board to conduct hearings and consider and dispose of appeals properly before the Board in a timely manner.".

SEC. 203. DECISIONS OF THE BOARD.

(a) DECISIONS BASED ON THE RECORD.—Section 4004(a) is amended by adding at the end the following new sentences: "The Board shall decide any such appeal only after affording the claimant an opportunity for a hearing. Decisions of the Board shall be based on the entire record in the proceeding and upon consideration of all evidence and material of record and applicable provisions of law and regulation.".

102 STAT. 4111

(b) CONFORMING AMENDMENT.—Section 4005(d)(5) is amended by striking out "will base its decision on the entire record and".

SEC. 204. REOPENING OF DISALLOWED CLAIMS.

Subsection (b) of section 4004 is amended to read as follows:

"(b) Except as provided in section 3008 of this title, when a claim is disallowed by the Board, the claim may not thereafter be reopened and allowed and a claim based upon the same factual basis may not be considered.".

SEC. 205. NOTICE AND CONTENT OF DECISIONS.

Section 4004 is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) Each decision of the Board shall include—

"(1) a written statement of the Board's findings and conclusions, and the reasons or bases for those findings and conclusions, on all material issues of fact and law presented on the record; and

"(2) an order granting appropriate relief or denying relief.

"(e) After reaching a decision in a case, the Board shall promptly mail a copy of its written decision to the claimant and the claimant's authorized representative (if any) at the last known address of the claimant and at the last known address of such representative (if any).".

SEC. 206. STATEMENT OF THE CASE.

(a) MATTERS TO BE INCLUDED.—Paragraph (1) of section 4005(d) is amended in the second sentence by striking out "will prepare" and all that follows and inserting in lieu thereof the following: "shall prepare a statement of the case. A statement of the case shall include the following:

"(A) A summary of the evidence in the case pertinent to the issue or issues with which disagreement has been expressed.

"(B) A citation to pertinent laws and regulations and a discussion of how such laws and regulations affect the agency's decision.

"(C) The decision on each issue and a summary of the reasons for such decision.".

(b) PROHIBITION AGAINST PRESUMPTION OF AGREEMENT.—Paragraph (4) of such section is amended to read as follows:

"(4) The claimant in any case may not be presumed to agree with any statement of fact contained in the statement of the case to which the claimant does not specifically express agreement.".

SEC. 207. TRAVELING SECTIONS OF THE BOARD.

(a) IN GENERAL.—Chapter 71 is further amended by adding at the end the following new section:

"§ 4010. Traveling sections

"A claimant may request a hearing before a traveling section of the Board. Any such hearing shall be scheduled for hearing before such a section within the area served by a regional office of the Veterans' Administration in the order in which the requests for

hearing are received by the Veterans' Administration with respect to hearings in that area.". 102 STAT. 4112

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4010. Traveling sections.".

SEC. 208. ANNUAL REPORT ON BOARD ACTIVITIES AND RESOURCES.

Section 4001 is amended by adding at the end the following new subsection:

"(d)(1) After the end of each fiscal year, the Chairman shall prepare a report on the activities of the Board during that fiscal year and the projected activities of the Board for the fiscal year during which the report is prepared and the next fiscal year. Such report shall be included in the documents providing detailed information on the budget for the Veterans' Administration that the Administrator submits to the Congress in conjunction with the President's budget submission for any fiscal year pursuant to section 1105 of title 31.

"(2) Each such report shall include, with respect to the preceding fiscal year, information specifying—

"(A) the number of cases appealed to the Board during that year;

"(B) the number of cases pending before the Board at the beginning and at the end of that year;

"(C) the number of such cases which were filed during each of the 36 months preceding the current fiscal year;

"(D) the average length of time a case was before the Board between the time of the filing of an appeal and the disposition during the preceding fiscal year; and

"(E) the number of members of the Board at the end of the year and the number of professional, administrative, clerical, stenographic, and other personnel employed by the Board at the end of the preceding fiscal year.

"(3) The projections in each such report for the current fiscal year and for the next fiscal year shall include (for each such year)—

"(A) an estimate of the number of cases to be appealed to the Board; and

"(B) an evaluation of the ability of the Board (based on existing and projected personnel levels) to ensure timely disposition of such appeals as required by section 4003(d) of this title.".

SEC. 209. LIMITATIONS ON AWARDING PERFORMANCE INCENTIVES TO BOARD MEMBERS.

Section 4001 (as amended by section 208) is further amended by adding at the end the following new subsection:

"(e) A performance incentive that is authorized by law for officers and employees of the Federal Government may be awarded to a member of the Board (including a temporary or acting member) by reason of that member's service on the Board only if the Chairman of the Board determines that such member should be awarded that incentive. A determination by the Chairman for such purpose shall be made taking into consideration the quality of performance of the Board member.".

102 STAT. 4113

TITLE III—UNITED STATES COURT OF VETERANS APPEALS

SEC. 301. UNITED STATES COURT OF VETERANS APPEALS.

(a) ESTABLISHMENT OF COURT.—Part V is amended by inserting after chapter 71 the following new chapter:

"CHAPTER 72—UNITED STATES COURT OF VETERANS APPEALS

"SUBCHAPTER I—ORGANIZATION AND JURISDICTION

"Sec.
"4051. Status.
"4052. Jurisdiction; finality of decisions.
"4053. Composition.
"4054. Organization.
"4055. Offices.
"4056. Times and places of sessions.

"SUBCHAPTER II—PROCEDURE

"4061. Scope of review.
"4062. Fee for filing appeals.
'4063. Representation of parties; fee agreements.
'4064. Rules of practice and procedure.
'4065. Contempt authority; assistance to the Court.
'4066. Notice of appeal.
'4067. Decisions.
'4068. Availability of proceedings.
'4069. Publication of decisions.

"SUBCHAPTER III—MISCELLANEOUS PROVISIONS

'4081. Employees.
'4082. Budget and expenditures.
"4083. Disposition of fees.
"4084. Fee for transcript of record.
"4085. Practice fee.

"SUBCHAPTER IV—DECISIONS AND REVIEW

"4091. Date when United States Court of Veterans Appeals decision becomes final.
"4092. Review by United States Court of Appeals for the Federal Circuit.

"SUBCHAPTER I—ORGANIZATION AND JURISDICTION

"§ 4051. Status

"There is hereby established, under Article I of the Constitution of the United States, a court of record to be known as the United States Court of Veterans Appeals.

"§ 4052. Jurisdiction; finality of decisions

"(a) The Court of Veterans Appeals shall have exclusive jurisdiction to review decisions of the Board of Veterans' Appeals. The Administrator may not seek review of any such decision. The court shall have power to affirm, modify, or reverse a decision of the Board or to remand the matter, as appropriate.

"(b) Review in the Court shall be on the record of proceedings before the Administrator and the Board. The extent of the review shall be limited to the scope provided in section 4061 of this title. The Court may not review the schedule of ratings for disabilities adopted under section 355 of this title or any action of the Administrator in adopting or revising that schedule.

102 STAT. 4114

"(c) Decisions by the Court are subject to review as provided in section 4092 of this title.

"§ 4053. Composition

"(a) The Court of Veterans Appeals shall be composed of a chief judge and at least two and not more than six associate judges.

President of U.S.

"(b) The judges of the Court shall be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office. A person may not be appointed to the Court who is not a member in good standing of the bar of a Federal court or of the highest court of a State. Not more than the number equal to the next whole number greater than one-half of the number of judges of the Court may be members of the same political party.

"(c) The term of office of the judges of the Court of Veterans Appeals shall be 15 years.

"(d) The chief judge is the head of the Court.

"(e)(1) The chief judge of the Court shall receive a salary at the same rate as is received by judges of the United States Courts of Appeals.

"(2) Each judge of the Court, other than the chief judge, shall receive a salary at the same rate as is received by judges of the United States district courts.

"(f)(1) A judge of the Court may be removed from office by the President on grounds of misconduct, neglect of duty, engaging in the practice of law, or physical or mental disability which, in the opinion of the President, prevents the proper execution of the judge's duties. A judge of the Court may not be removed from office by the President on any other ground.

"(2) Before a judge may be removed from office under this subsection, the judge shall be provided with a full specification of the reasons for the removal and an opportunity to be heard.

"§ 4054. Organization

"(a) The Court of Veterans Appeals shall have a seal which shall be judicially noticed.

"(b) The Court may hear cases by judges sitting alone or in panels, as determined pursuant to procedures established by the Court. Any such panel shall have not less than three judges. The Court shall establish procedures for the assignment of the judges of the Court to such panels and for the designation of the chief of each such panel.

"(c)(1) A majority of the judges of the Court shall constitute a quorum for the transaction of the business of the Court. A vacancy in the Court shall not impair the powers or affect the duties of the Court or of the remaining judges of the Court.

"(2) A majority of the judges of a panel of the Court shall constitute a quorum for the transaction of the business of the panel. A vacancy in a panel of the Court shall not impair the powers or affect the duties of the panel or of the remaining judges of the panel.

"§ 4055. Offices

"The principal office of the Court of Veterans Appeals shall be in the District of Columbia, but the Court may sit at any place within the United States.

District of Columbia.

102 STAT. 4115

"§ 4056. Times and places of sessions

"The times and places of sessions of the Court of Veterans Appeals shall be prescribed by the chief judge.

"SUBCHAPTER II—PROCEDURE

"§ 4061. Scope of review

"(a) In any action brought under this chapter, the Court of Veterans Appeals, to the extent necessary to its decision and when presented, shall—

"(1) decide all relevant questions of law, interpret constitutional, statutory, and regulatory provisions, and determine the meaning or applicability of the terms of an action of the Administrator;

"(2) compel action of the Administrator unlawfully withheld;

"(3) hold unlawful and set aside decisions, findings (other than those described in clause (4) of this subsection), conclusions, rules, and regulations issued or adopted by the Administrator, the Board of Veterans' Appeals, or the Chairman of the Board found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

"(D) without observance of procedure required by law; and

"(4) in the case of a finding of material fact made in reaching a decision in a case before the Veterans' Administration with respect to benefits under laws administered by the Veterans' Administration, hold unlawful and set aside such finding if the finding is clearly erroneous.

"(b) In making the determinations under subsection (a) of this section, the Court shall take due account of the rule of prejudicial error.

"(c) In no event shall findings of fact made by the Administrator or the Board of Veterans' Appeals be subject to trial de novo by the court.

"(d) When a final decision of the Board of Veterans' Appeals is adverse to a party and the sole stated basis for such decision is the failure of the party to comply with any applicable regulation prescribed by the Administrator, the Court shall review only questions raised as to compliance with and the validity of the regulation.

"§ 4062. Fee for filing appeals

"(a) The Court of Veterans Appeals may impose a fee of not more than $50 for the filing of any appeal with the Court. The Court shall establish procedures under which such a fee may be waived in the case of an appeal filed by or on behalf of a person who demonstrates that the requirement that such fee be paid will impose a hardship on that person. A decision as to such a waiver is final and may not be reviewed in any other court.

102 STAT. 4116

"(b) The Court may from time to time adjust the maximum amount permitted for a fee imposed under subsection (a) of this section based upon inflation and similar fees charged by other courts established under Article I of the Constitution.

"§ 4063. Representation of parties; fee agreements

"(a) The Administrator shall be represented before the Court of Veterans Appeals by the General Counsel of the Veterans' Administration.

"(b) Representation of appellants shall be in accordance with the rules of practice prescribed by the Court under section 4064 of this title. In addition to members of the bar admitted to practice before the Court in accordance with such rules of practice, the Court may allow other persons to practice before the Court who meet standards of proficiency prescribed in such rules of practice.

"(c) A person who represents an appellant before the Court shall file a copy of any fee agreement between the appellant and that person with the Court at the time the appeal is filed. The Court, on its own motion or the motion of any party, may review such a fee agreement.

"(d) In reviewing a fee agreement under subsection (c) of this section or under section 3404(c)(2) of this title, the Court may affirm the finding of order of the Board and may order a reduction in the fee called for in the agreement if it finds that the fee is excessive or unreasonable. An order of the Court under this subsection is final and may not be reviewed in any other court.

"§ 4064. Rules of practice and procedure

"(a) The proceedings of the Court of Veterans Appeals shall be conducted in accordance with such rules of practice and procedure as the Court prescribes.

"(b) The mailing of a pleading, decision, order, notice, or process in respect of proceedings before the Court shall be held sufficient service of such pleading, decision, order, notice, or process if it is properly addressed to the address furnished by the appellant on the notice of appeal filed under section 4066 of this title.

"§ 4065. Contempt authority; assistance to the Court

"(a) The Court shall have power to punish by fine or imprisonment such contempt of its authority as—

"(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

"(2) misbehavior of any of its officers in their official transactions; or

"(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

"(b) The Court shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree, or command as is available to a court of the United States. The United States marshal for a district in which the Court is sitting shall, if requested by the chief judge of the Court, attend any session of the Court in that district.

"§ 4066. Notice of appeal

"(a) In order to obtain review by the Court of Veterans Appeals of a final decision of the Board of Veterans' Appeals, a person adversely affected by that action must file a notice of appeal with the Court. Any such notice must be filed within 120 days after the date on which notice of the decision is mailed pursuant to section 4004(e) of this title. 102 STAT. 4117

"(b) The appellant shall also furnish the Administrator with a copy of such notice, but a failure to do so shall not constitute a failure of timely compliance with subsection (a) of this section.

"§ 4067. Decisions

"(a) A decision upon a proceeding before the Court of Veterans Appeals shall be made as quickly as practicable. In a case heard by a panel of the Court, the decision shall be made by a majority vote of the panel in accordance with the rules of the Court. The decision of the judge or panel hearing the case so made shall be the decision of the Court except as provided in subsection (d) of this section.

"(b) The Court shall include in its decision a statement of its conclusions of law and determinations as to factual matters.

"(c) A judge or panel shall make a determination upon any proceeding before the Court, and any motion in connection with such a proceeding, that is assigned to the judge or panel. The judge or panel shall make a report of any such determination which constitutes the judge or panel's final disposition of the proceeding. Reports.

"(d)(1) In the case of a proceeding determined by a single judge of the Court, the decision of the judge shall become the decision of the Court unless before the end of the 30-day period beginning on the date of the decision by the judge the Court, upon the motion of either party or on its own initiative, directs that the decision be reviewed by a panel of the Court. In such a case, the decision of the judge initially deciding the case shall not be a part of the record.

"(2) In the case of a proceeding determined by a panel of the Court, the decision of the panel shall become the decision of the Court unless before the end of the 30-day period beginning on the date of the decision by the panel the Court, upon the motion of either party or on its own initiative, directs that the decision be reviewed by an expanded panel of the Court (or the Court en banc). In such a case, the decision of the panel initially deciding the case shall not be a part of the record.

"(e) The Court shall designate in its decision in any case those specific records of the Government on which it relied (if any) in making its decision. The Administrator shall preserve records so designated for not less than the period of time designated by the Administrator of the National Archives and Records Administration. Records. Historic preservation.

"§ 4068. Availability of proceedings Records.

"(a) Except as provided in subsection (b) of this section, all decisions of the Court of Veterans Appeals and all briefs, motions, Public information.

documents, and exhibits received by the Court (including a transcript of the stenographic report of the hearings) shall be public records open to the inspection of the public.

Classified information.

"(b)(1) The Court may make any provision which is necessary to prevent the disclosure of confidential information, including a provision that any such document or information be placed under seal to be opened only as directed by the Court.

"(2) After the decision of the Court in a proceeding becomes final, the Court shall permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, submitted to the Court before the Court may, on its own motion, make such other disposition thereof as it considers advisable.

102 STAT. 4118

"§ 4069. Publication of decisions

Public information.

"(a) The Court of Veterans Appeals shall provide for the publication of decisions of the Court in such form and manner as may be best adapted for public information and use. The Court may make such exceptions, or may authorize the chief judge to make such exceptions, to the requirement for publication in the preceding sentence as may be appropriate.

"(b) Such authorized publication shall be competent evidence of the decisions of the Court of Veterans Appeals therein contained in all courts of the United States and of the several States without any further proof or authentication thereof.

"(c) Such publications shall be subject to sale in the same manner and upon the same terms as other public documents.

"SUBCHAPTER III—MISCELLANEOUS PROVISIONS

"§ 4081. Employees

"The Court of Veterans Appeals may appoint such employees as may be necessary to execute the functions vested in the Court. Such appointments shall be made in accordance with the provisions of title 5 governing appointment in the competitive service, except that the Court may classify such positions based upon the classification of comparable positions in the judicial branch. The basic pay of such employees shall be fixed in accordance with subchapter III of chapter 53 of title 5.

"§ 4082. Budget and expenditures

"(a) The budget of the Court of Veterans Appeals as submitted by the Court for inclusion in the budget of the President for any fiscal year shall be included in that budget without review within the executive branch.

"(b) The Court may make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals) as may be necessary to execute efficiently the functions vested in the Court.

"(c) All expenditures of the Court shall be allowed and paid upon presentation of itemized vouchers signed by the certifying officer designated by the chief judge. Except as provided in section 4085 of this title, all such expenditures shall be paid out of moneys appropriated for purposes of the Court.

"§ 4083. Disposition of fees

"Except for amounts received pursuant to section 4085 of this title, all fees received by the Court of Veterans Appeals shall be covered into the Treasury as miscellaneous receipts.

"§ 4084. Fee for transcript of record

"The Court of Veterans Appeals may fix a fee, not in excess of the fee authorized by law to be charged and collected therefor by the

clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record of any proceeding before the Court, or for copying any record, entry, or other paper and the comparison and certification thereof.

102 STAT. 4119

"§ 4085. Practice fee

"(a) The Court of Veterans Appeals may impose a periodic registration fee on persons admitted to practice before the Court. The frequency and amount of such fee shall be determined by the Court, except that such amount may not exceed $30 per year.

"(b) Amounts received by the Court under subsection (a) of this section shall be available to the Court for the purposes of (1) employing independent counsel to pursue disciplinary matters, and (2) defraying administrative costs for the implementation of the standards of proficiency prescribed for practice before the Court.

"SUBCHAPTER IV—DECISIONS AND REVIEW

"§ 4091. Date when United States Court of Veterans Appeals decision becomes final

"(a) A decision of the United States Court of Veterans Appeals shall become final upon the expiration of the time allowed for filing, under section 4092 of this title, a notice of appeal from such decision, if no such notice is duly filed within such time. If such a notice is filed within such time, such a decision shall become final—

"(1) upon the expiration of the time allowed for filing a petition for certiorari with the Supreme Court of the United States, if the decision of the Court of Veterans Appeals is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit and no petition for certiorari is duly filed;

"(2) upon the denial of a petition for certiorari, if the decision of the Court of Veterans Appeals is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit; or

"(3) upon the expiration of 30 days from the date of issuance of the mandate of the Supreme Court, if that Court directs that the decision of the Court of Veterans Appeals be affirmed or the appeal dismissed.

"(b)(1) If the Supreme Court directs that the decision of the Court of Veterans Appeals be modified or reversed, the decision of the Court of Veterans Appeals rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of 30 days from the time it was rendered, unless within such 30 days either the Administrator or the petitioner has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the Court of Veterans Appeals shall become final when so corrected.

"(2) If the decision of the Court of Veterans Appeals is modified or reversed by the United States Court of Appeals for the Federal Circuit and if—

"(A) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

"(B) the petition for certiorari has been denied, or

"(C) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Veterans Appeals rendered in accordance with the mandate of the United States Court of Appeals for the Federal Circuit shall become final upon the expiration of 30 days from the time such decision of the Court of Veterans Appeals was rendered, unless within such 30 days either the Administrator

102 STAT. 4120

or the petitioner has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which event the decision of the Court of Veterans Appeals shall become final when so corrected.

"(c) If the Supreme Court orders a rehearing, or if the case is remanded by the United States Court of Appeals for the Federal Circuit to the Court of Veterans Appeals for a rehearing, and if—

"(1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

"(2) the petition for certiorari has been denied, or

"(3) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Veterans Appeals rendered upon such rehearing shall become final in the same manner as though no prior decision of the Court of Veterans Appeals had been rendered.

"(d) As used in this section, the term 'mandate', in case a mandate has been recalled before the expiration of 30 days from the date of issuance thereof, means the final mandate.

"§ 4092. Review by United States Court of Appeals for the Federal Circuit

"(a) After a decision of the United States Court of Veterans Appeals is entered in a case, any party to the case may obtain a review of the decision with respect to the validity of any statute or regulation (other than a refusal to review the schedule of ratings for disabilities adopted under section 355 of this title) or any interpretation thereof (other than a determination as to a factual matter) that was relied on by the Court in making the decision. Such a review shall be obtained by filing a notice of appeal with the Court of Veterans Appeals within the time and in the manner prescribed for appeal to United States courts of appeals from United States district courts.

"(b)(1) When a judge or panel of the Court of Veterans Appeals, in making an order not otherwise appealable under this section, determines that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that there is in fact a disagreement between the appellant and the Administrator with respect to that question of law and that the ultimate termination of the case may be materially advanced by the immediate consideration of that question, the judge or panel shall notify the chief judge of that determination. Upon receiving such a notification, the chief judge shall certify that such a question is presented, and any party to the case may then petition the Court of Appeals for the Federal Circuit to decide the question. That court may permit an interlocutory appeal to be taken on that question if such a petition is filed with it within 10 days after the certification by the chief judge of the Court of Veterans Appeals. Neither the application for, nor the granting of, an appeal under this paragraph shall stay proceedings in the Court of Veterans Appeals, unless a stay is ordered by a judge of the Court of Veterans Appeals or by the Court of Appeals for the Federal Circuit.

"(2) For purposes of subsections (d) and (e) of this section, an order described in this paragraph shall be treated as a decision of the Court of Veterans Appeals.

"(c) The United States Courts of Appeals for the Federal Circuit shall have exclusive jurisdiction to review and decide any challenge
102 STAT. 4121 to the validity of any statute or regulation or any interpretation thereof brought under this section, and to interpret constitutional and statutory provisions, to the extent presented and necessary to a decision. The judgment of such court shall be final subject to review by the Supreme Court upon certiorari, in the manner provided in section 1254 of title 28.

"(d)(1) The Court of Appeals for the Federal Circuit shall decide all relevant questions of law, including interpreting constitutional and statutory provisions. The court shall hold unlawful and set aside any statute or regulation or any interpretation thereof (other than a determination as to a factual matter) that was relied upon in the decision of the Court of Veterans Appeals that the Court of Appeals for the Federal Circuit finds to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

"(D) without observance of procedure required by law.

"(2) Except to the extent that an appeal under this chapter presents a constitutional issue, the Court of Appeals may not review (A) a challenge to a factual determination, or (B) a challenge to a law or regulation as applied to the facts of a particular case.

"(e)(1) Upon such review, the Court of Appeals for the Federal Circuit shall have power to affirm or, if the decision of the Court of Veterans Appeals is not in accordance with law, to modify or reverse the decision of the Court of Veterans Appeals or to remand the matter, as appropriate.

"(2) Rules for review of decisions of the Court of Veterans Appeals shall be those prescribed by the Supreme Court under section 2072 of title 28.".

(b) CLERICAL AMENDMENT.—The tables of chapters before part I and at the beginning of part V are each amended by inserting after the item relating to chapter 71 the following new item:

"72. Court of Veterans Appeals ..... 4051".

SEC. 302. INITIAL APPOINTMENT OF JUDGES TO COURT OF VETERANS APPEALS.

38 USC 4053 note.

(a) CHIEF JUDGE TO BE APPOINTED FIRST.—The President may not appoint an individual to be an associate judge of the United States Court of Veterans Appeals under section 4053(b) of title 38, United States Code, as added by section 301, until the chief judge of such Court has been appointed. The President shall, during the period beginning on January 21, 1989, and ending on April 1, 1989, nominate an individual for appointment to the position of chief judge of such Court.

President of U.S.

(b) JUDGES.—Subject to subsection (a), judges of the Court of Veterans Appeals may be appointed after February 1, 1989.

SEC. 303. FACILITY FOR PRINCIPAL OFFICE OF COURT.

38 USC 4055 note.

In the implementation of section 4055 of title 38, United States Code (as added by section 301), the principal office of the Court of Veterans Appeals shall initially be located, if practicable, in a facility existing on the date of the enactment of this Act that, as determined by the Administrative Office of the United States Courts, would facilitate maximum efficiency and economy in the operation of the Court. The Administrative Office of the United States Courts shall take into consideration the convenience of the location of such facility to needed library resources, clerical and administrative support equipment and personnel, and other resources available for shared use by the Court and other courts or agencies of the Federal Government.

102 STAT. 4122

TITLE IV—EFFECTIVE DATES AND APPLICABILITY

SEC. 401. EFFECTIVE DATES.

38 USC 4051 note.

(a) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, this division (and the amendments made by this Act) shall take effect on September 1, 1989.

(b) EFFECTIVE DATE FOR CERTAIN TRANSITION PROVISIONS.—The amendment made by section 201(a) shall take effect on February 1, 1989.

(c) DATE OF ENACTMENT.—Sections 201 (other than subsection (a)), 208, 209, 302, and 303, and the amendments made by those sections, shall take effect on the date of the enactment of this Act.

(d) BOARD OF VETERANS' APPEALS.—Sections 202 through 207 shall take effect on January 1, 1989.

(e) COMMENCEMENT OF OPERATION OF COURT OF VETERANS APPEALS.—Notwithstanding subsection (a), the United States Court of Veterans Appeals established pursuant to chapter 72 of title 38, United States Code (as added by section 301) shall not begin to operate until at least three judges have been appointed to the court.

38 USC 4051 note.

SEC. 402. APPLICABILITY TO CASES AFTER DATE OF ENACTMENT.

Chapter 72 of title 38, United States Code, as added by section 301, shall apply with respect to any case in which a notice of disagreement is filed under section 4005 of title 38, United States Code, on or after the date of the enactment of this Act.

38 USC 3404 note.

SEC. 403. APPLICABILITY TO ATTORNEYS FEES.

The amendment to section 3404(c) of title 38, United States Code, made by section 104(a) shall apply only with respect to services of agents and attorneys in cases in which a notice of disagreement is filed with the Veterans' Administration on or after the date of the enactment of this division.

Veterans' Benefits Improvement Act of 1988.

DIVISION B—VETERANS' BENEFITS IMPROVEMENT

SEC. 1001. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

38 USC 101 note.

(a) SHORT TITLE.—This division may be cited as the "Veterans' Benefits Improvement Act of 1988".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

38 USC 101 note.

SEC. 1002. DEFINITION OF ADMINISTRATOR.

For purposes of this division, the term "Administrator" means the Administrator of Veterans' Affairs.

102 STAT. 4123

TITLE XI—COMPENSATION RATE INCREASES

SEC. 1101. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 is amended—

(1) by striking out "$71" in subsection (a) and inserting in lieu thereof "$73";

(2) by striking out "$133" in subsection (b) and inserting in lieu thereof "$138";

(3) by striking out "$202" in subsection (c) and inserting in lieu thereof "$210";

(4) by striking out "$289" in subsection (d) and inserting in lieu thereof "$300";

(5) by striking out "$410" in subsection (e) and inserting in lieu thereof "$426";

(6) by striking out "$516" in subsection (f) and inserting in lieu thereof "$537";

(7) by striking out "$652" in subsection (g) and inserting in lieu thereof "$678";

(8) by striking out "$754" in subsection (h) and inserting in lieu thereof "$784";

(9) by striking out "$849" in subsection (i) and inserting in lieu thereof "$883";

(10) by striking out "$1,411" in subsection (j) and inserting in lieu thereof "$1,468";

(11) by striking out "$1,754" and "$2,459" in subsection (k) and inserting in lieu thereof "$1,825" and "$2,559", respectively;

(12) by striking out "$1,754" in subsection (l) and inserting in lieu thereof "$1,825";

(13) by striking out "$1,933" in subsection (m) and inserting in lieu thereof "$2,012";

(14) by striking out "$2,199" in subsection (n) and inserting in lieu thereof "$2,289";

(15) by striking out "$2,459" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,559";

(16) by striking out "$1,055" and "$1,572" in subsection (r) and inserting in lieu thereof "$1,098" and "$1,636", respectively; and

(17) by striking out "$1,579" in subsection (s) and inserting in lieu thereof "$1,643".

(b) SPECIAL RULE.—The Administrator may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code. 38 USC 314 note.

SEC. 1102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—

(1) by striking out "$85" in clause (A) and inserting in lieu thereof "$88";

(2) by striking out "$143" and "$45" in clause (B) and inserting in lieu thereof "$148" and "$46", respectively; 102 STAT. 4124

(3) by striking out "$59" and "$45" in clause (C) and inserting in lieu thereof "$61" and "$46", respectively;

(4) by striking out "$69" in clause (D) and inserting in lieu thereof "$71";

(5) by striking out "$155" in clause (E) and inserting in lieu thereof "$161"; and

(6) by striking out "$131" in clause (F) and inserting in lieu thereof "$136".

SEC. 1103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$380" and inserting in lieu thereof "$395".

SEC. 1104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$539	W-4	$ 773
E-2	555	O-1	682
E-3	570	O-2	704
E-4	606	O-3	754
E-5	622	O-4	797
E-6	636	O-5	879
E-7	667	O-6	991
E-8	704	O-7	1,071
E-9	[1] 735	O-8	1,174
W-1	682	O-9	1,259
W-2	709	O-10	[2] 1,381
W-3	730		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $794.

"[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,480.";

(2) by striking out "$60" in subsection (b) and inserting in lieu thereof "$62";

(3) by striking out "$155" in subsection (c) and inserting in lieu thereof "$161"; and

(4) by striking out "$76" in subsection (d) and inserting in lieu thereof "$79".

SEC. 1105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 413(a) is amended—
(1) by striking out "$261" in clause (1) and inserting in lieu thereof "$271";
(2) by striking out "$376" in clause (2) and inserting in lieu thereof "$391";
(3) by striking out "$486" in clause (3) and inserting in lieu thereof "$505"; and
(4) by striking out "$486" and "$97" in clause (4) and inserting in lieu thereof "$505" and "$100", respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section
102 STAT. 4125 414 is amended—
(1) by striking out "$155" in subsection (a) and inserting in lieu thereof "$161";
(2) by striking out "$261" in subsection (b) and inserting in lieu thereof "$271"; and
(3) by striking out "$133" in subsection (c) and inserting in lieu thereof "$138".

38 USC 314 note.

SEC. 1106. EFFECTIVE DATE FOR RATE INCREASES.

The amendments made by this title shall take effect on December 1, 1988.

Vietnam.

TITLE XII—AGENT ORANGE AND RELATED PROVISIONS

SEC. 1201. FUNDING FOR AGENT ORANGE BLOOD TESTING.

Funds appropriated to the Veterans' Administration in Public Law 98-181 for medical and prosthetic research and obligated through the Centers for Disease Control for a contract for the conduct of an epidemiological study relating to exposure of veterans to the herbicide known as Agent Orange shall, upon the cancellation of that contract, be available for obligation until September 30, 1989, in the amounts of—

(1) $3,000,000 for payment of expenses of the Department of the Air Force in connection with blood tests of individuals who, while serving in the Air Force, participated in the spraying of Agent Orange in Vietnam during the Vietnam era; and

(2) $1,000,000 for payment of expenses of a survey of scientific evidence, studies, and literature relating to health effects of possible exposure to toxic chemicals contained in herbicides used in the Republic of Vietnam during the Vietnam era, which survey shall be conducted by an independent scientific entity under contract to the Veterans Administration pursuant to a law enacted after the date of the enactment of this Act.

SEC. 1202. EXTENSION OF HEALTH-CARE ELIGIBILITY BASED ON AGENT ORANGE OR IONIZING RADIATION EXPOSURE.

Section 610(e)(3) is amended by striking out "September 30, 1989" and inserting in lieu thereof "December 31, 1990".

SEC. 1203. TREATMENT FOR NEEDS-BASED BENEFITS PURPOSES OF AMOUNTS RECEIVED UNDER AGENT ORANGE LITIGATION SETTLEMENT.

Any payment received by any person pursuant to the settlement in the case of In re Agent Orange Product Liability Litigation in the United States District Court for the Eastern District of New York (MDL No. 381) shall be treated for purposes of laws administered by the Veterans' Administration as reimbursement for prior unreimbursed medical expenses, and no such payment shall be countable as income for any such purpose.

SEC. 1204. OUTREACH SERVICES.

38 USC 241 note.

(a) ONGOING OUTREACH PROGRAM.—The Administrator shall conduct an active, continuous outreach program for furnishing to veterans of active military, naval, or air service who served in the Republic of Vietnam during the Vietnam era information relating to—

102 STAT. 4126

(1) the health risks (if any) resulting from exposure during that service to dioxin or any other toxic agent in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era, as such information on health risks becomes known; and

(2) services and benefits available to such veterans with respect to such health risks.

(b) INFORMATION IN AGENT ORANGE REGISTRY.—The Administrator shall take reasonable actions to organize and update the information contained in the Veterans' Administration Agent Orange Registry in a manner that enables the Administrator promptly to notify a veteran of any increased health risk for such veteran resulting from exposure of such veteran to dioxin or any other toxic agent referred to in subsection (a) during Vietnam-era service in the Republic of Vietnam whenever the Administrator determines, on the basis of physical examination or other pertinent information, that such veteran is subject to such an increased health risk.

SEC. 1205. RANCH HAND STUDY.

(a) ADVISORY COMMITTEE PERSONNEL AND SUPPORT.—(1) After February 28, 1989, not less than one-third of the total number of members of the Ranch Hand Advisory Committee shall be individuals selected by the Secretary of Health and Human Services from among scientists who are recommended by veterans' organizations for membership on the committee and are determined by the Secretary to be qualified for service on the committee.

(2) A scientist shall be considered to be qualified for service on the Ranch Hand Advisory Committee if (A) the scientist has earned a doctor of medicine degree or a doctorate or other advanced degree from an institution of higher education in a field relevant to the responsibilities of the Advisory Committee and has written one or more articles relevant to those responsibilities which have appeared in scientific publications following a peer-review process, or (B) the scientist has qualifications equivalent to those set forth in clause (A).

(b) CHAIRMAN.—After February 28, 1989, the Chairman of the Ranch Hand Advisory Committee may be an officer or employee of the Federal Government (other than by reason of service as a member of the Advisory Committee) only if the Secretary of Health and Human Services determines, after affirmatively seeking to recruit a chairman who is not an officer or employee of the Federal Government, that there is no individual qualified and available to serve as Chairman who is not an officer or employee of the Federal Government. The Secretary shall report any such determination to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

Reports.

(c) SCHEDULE OF REPORTS.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Veterans' Affairs and the Committees on Armed Services of the Senate and the House of Representatives a schedule of reports to be prepared by the Secretary of the Air Force or the Secretary of Defense on the progress and findings of the Ranch Hand Study.

(2) Each report referred to in paragraph (1) shall include the following:

102 STAT. 4127

(A) A discussion of the progress made in the Ranch Hand Study during the period covered by the report.

(B) A summary of the scientific activities conducted during that period and the findings resulting from those activities, to be prepared by the scientists conducting those activities.

(3) Such a report need not contain (A) a discussion of progress discussed in any other report prepared by the Department of Defense (under this section or otherwise) regarding the Ranch Hand Study, or (B) a scientific summary included in any other such report, unless modification of such discussion or summary is appropriate for completeness, accuracy, and currency.

(4) The Secretary of Defense shall submit to the committees referred to in paragraph (1) a copy of each report referred to that paragraph.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "Ranch Hand Advisory Committee" means the committee known as the "Advisory Committee on Special Studies Relating to the Possible Long-term Health Effects of Phenoxy Herbicides and Contaminants" established by the Secretary of Defense to monitor the conduct of the Ranch Hand Study.

(2) The term "Ranch Hand Study" means the special study conducted by the Secretary of the Air Force relating to the possible long-term health effects of phenoxy herbicides and contaminants on Air Force personnel who participated in Operation Ranch Hand in the Republic of Vietnam during the Vietnam era.

TITLE XIII—REHABILITATION PROVISIONS

SEC. 1301. TEMPORARY PROGRAMS OF TRIAL WORK PERIODS AND VOCATIONAL-REHABILITATION EVALUATIONS.

(a) THREE-YEAR EXTENSION.—Subsection (a)(2)(B) of section 363 is amended by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1992".

(b) VOLUNTARY PARTICIPATION.—Subsection (c) of such section is amended—

(1) by striking out paragraphs (2), (3), and (4);

(2) by striking out "(1)(A) Except as provided in paragraph (4) of this subsection, in" and inserting in lieu thereof "(1) In"; and

(3) in paragraph (1)—

(A) by redesignating clauses (i), (ii), and (iii) as clauses (A), (B), and (C), respectively; and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(2) After providing the notice required under paragraph (1) of this subsection, the Administrator shall offer the veteran the opportunity for an evaluation under section 1506(a) of this title.".

SEC. 1302. FUNDING OF EDUCATIONAL AND VOCATIONAL COUNSELING SERVICES.

(a) IN GENERAL.—Subchapter II of chapter 36 is amended by adding at the end the following new section:

102 STAT. 4128

"§ 1797. Funding of contract educational and vocational counseling

"(a) Subject to subsection (b) of this section, educational or vocational counseling services obtained by the Veterans' Administration by contract and provided to an individual applying for or receiving benefits under section 524 or chapter 30, 32, 34, or 35 of this title, or chapter 106 of title 10, shall be paid for out of funds appropriated, or otherwise available, to the Veterans' Administration for payment of readjustment benefits.

"(b) Payments under this section shall not exceed $5,000,000 in any fiscal year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 36 is amended by inserting after the item relating to section 1796 the following new item:

"1797. Funding of contract educational and vocational counseling.".

SEC. 1303. VOCATIONAL TRAINING FOR PENSION RECIPIENTS.

(a) ELIGIBILITY.—Subsection (a)(2) of section 524 is amended by striking out "who is awarded pension during the program period" and inserting in lieu thereof "is awarded pension during the program period, or a veteran who was awarded pension before the beginning of the program period,".

(b) EXTENSION OF PROGRAM PERIOD.—Subsections (a)(4) and (b)(4)(A) of such section are each amended by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1992".

(c) HEALTH-CARE ELIGIBILITY.—Section 525(b)(2) is amended by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1992".

TITLE XIV—MISCELLANEOUS BENEFIT PROVISIONS

SEC. 1401. LIFE INSURANCE PROGRAMS.

(a) AUTHORITY FOR PAYMENT OF INTEREST ON INSURANCE SETTLEMENTS.—(1) Subchapter I of chapter 19 is amended by adding at the end the following new section:

"§ 728. Authority for payment of interest on settlements

"(a) Subject to subsection (b) of this section, the Administrator may pay interest on the proceeds of a participating National Service Life Insurance, Veterans' Special Life Insurance, and Veterans Reopened Insurance policy from the date the policy matures to the date of payment of the proceeds to the beneficiary or, in the case of an endowment policy, to the policyholder.

"(b)(1) The Administrator may pay interest under subsection (a) of this section only if the Administrator determines that the payment of such interest is administratively and actuarially sound for the settlement option involved.

"(2) Interest paid under subsection (a) of this section shall be at the rate that is established by the Administrator for dividends held on credit or deposit in policyholders' accounts under the insurance program involved.".

(2) Subchapter II of chapter 19 is amended by adding at the end the following new section: 102 STAT. 4129

"§ 763. Authority for payment of interest on settlements

"(a) Subject to subsection (b) of this section, the Administrator may pay interest on the proceeds of a United States Government Life Insurance policy from the date the policy matures to the date of payment of the proceeds to the beneficiary or, in the case of an endowment policy, to the policyholder.

"(b)(1) The Administrator may pay interest under subsection (a) of this section only if the Administrator determines that the payment of such interest is administratively and actuarially sound for the settlement option involved.

"(2) Interest paid under subsection (a) shall be at the rate that is established by the Administrator for dividends held on credit or deposit in policyholders' accounts.".

(3) The amendments made by this subsection shall take effect with respect to insurance policies maturing after the date of the enactment of this Act. 38 USC 728 note.

(b) AUTHORITY TO ADJUST DISCOUNT RATES FOR ADVANCE PAYMENT OF PREMIUMS.—(1) Subchapter I of chapter 19, as amended by

subsection (a)(1), is further amended by adding at the end the following new section:

"§ 729. Authority to adjust premium discount rates

"(a) Notwithstanding sections 702, 723, and 725 of this title and subject to subsection (b) of this section, the Administrator may from time to time adjust the discount rates for premiums paid in advance on National Service Life Insurance, Veterans' Special Life Insurance, and Veterans Reopened Insurance.

"(b)(1) In adjusting a discount rate pursuant to subsection (a) of this section, the Administrator may not set such rate at a rate lower than the rate authorized for the program of insurance involved under section 702, 723, or 725 of this title.

"(2) The Administrator may make an adjustment under subsection (a) of this section only if the Administrator determines that the adjustment is administratively and actuarially sound for the program of insurance involved.".

38 USC 729 note.

(2) The amendment made by paragraph (1) shall take effect with respect to premiums paid after the date of the enactment of this Act.

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 19 is amended—

(1) by inserting after the item relating to section 727 the following new items:

"728. Authority for payment of interest on settlements.
"729. Authority to adjust premium discount rates.";

and

(2) by inserting after the item relating to section 762 the following new item:

"763. Authority for payment of interest on settlements.".

SEC. 1402. INCOME EXCLUSION FOR CASUALTY LOSS REIMBURSEMENTS.

(a) PARENTS DIC.—Clause (I) of section 415(f)(1) is amended to read as follows:

Regulations.

"(I) reimbursements of any kind for any casualty loss (as defined in regulations which the Administrator shall prescribe), but the amount excluded under this clause may not exceed the greater of the fair market value or the reasonable replacement value of the property involved at the time immediately preceding the loss;".

102 STAT. 4130

(b) PENSION.—Clause (5) of section 503(a) is amended to read as follows:

Regulations.

"(5) reimbursements of any kind for any casualty loss (as defined in regulations which the Administrator shall prescribe), but the amount excluded under this clause may not exceed the greater of the fair market value or reasonable replacement value of the property involved at the time immediately preceding the loss;".

SEC. 1403. RECODIFICATION OF PROVISIONS RELATING TO CERTAIN BENEFITS FOR SURVIVORS OF CERTAIN VETERANS.

(a) IN GENERAL.—(1) Subchapter II of chapter 13 is amended by adding at the end the following new section:

"§ 418. Benefits for survivors of certain veterans rated totally disabled at time of death

"(a) The Administrator shall pay benefits under this chapter to the surviving spouse and to the children of a deceased veteran described in subsection (b) of this section in the same manner as if the veteran's death were service connected.

"(b) A deceased veteran referred to in subsection (a) of this section is a veteran who dies, not as the result of the veteran's own willful misconduct, and who was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that either—

"(1) was continuously rated totally disabling for a period of 10 or more years immediately preceding death; or

"(2) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty.

"(c) Benefits may not be paid under this chapter by reason of this section to a surviving spouse of a veteran unless—

"(1) the surviving spouse was married to the veteran for two years or more immediately preceding the veteran's death; or

"(2) a child was born of the marriage or was born to them before the marriage.

"(d) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in subsection (a) of this section, benefits under this chapter payable to such surviving spouse or child by virtue of this section shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

"(e) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this section shall be deemed eligibility for dependency and indemnity compensation under section 411(a) of this title.".

(2) The table of sections at the beginning of chapter 13 is amended by inserting after the item relating to section 417 the following new item:

102 STAT. 4131

"418. Benefits for survivors of certain veterans rated totally disabled at time of death.".

(b) CONFORMING AMENDMENTS.—Section 410 is amended by striking out subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 1404. SPECIFICATION IN BUDGET SUBMISSIONS OF FUNDS FOR CERTAIN VETERANS BENEFITS.

38 USC 210 note.

(a) BUDGET INFORMATION.—In the documentation providing detailed information on the budgets for the Veterans' Administration and the Department of Labor that the Administrator and the Secretary of Labor, respectively, submit to the Congress in conjunction with the President's budget submission for each fiscal year pursuant to section 1105 of title 31, United States Code, the Administrator and the Secretary shall identify, to the maximum extent feasible, the estimated amount in each of the appropriation requests for Veterans' Administration accounts and Department of Labor accounts, respectively, that is to be obligated for the furnishing of each of the following services or benefits only to, or with respect to, veterans who performed active military, naval, or air service in combat with the enemy or in a theatre of combat operations during a period of war or other hostilities:

(1) Employment services and other employment benefits under programs administered by the Secretary of Labor.

(2) Compensation under chapter 11 of title 38, United States Code.

(3) Dependency and Indemnity Compensation under chapter 13 of such title.

(4) Pension under chapter 15 of such title.

(5) Inpatient hospital care under chapter 17 of such title.

(6) Outpatient medical care under chapter 17 of such title.

(7) Nursing home care under chapter 17 of such title.

(8) Domiciliary care under chapter 17 of such title.

(9) Readjustment counseling services under section 612A of such title.

(10) Insurance under chapter 19 of such title.

(11) Specially adapted housing for disabled veterans under chapter 21 of such title.

(12) Burial benefits under chapter 23 of such title.

(13) Educational assistance under chapters 30, 32, and 34 of such title and chapter 106 of title 10, United States Code.

(14) Vocational rehabilitation services under chapter 31 of title 38, United States Code.

(15) Survivors' and dependents' educational assistance under chapter 35 of such title.

(16) Home loan benefits under chapter 37 of such title.

(17) Automobiles and adaptive equipment under chapter 39 of such title.

(b) REPORT ON FEASIBILITY.—If the Administrator or the Secretary of Labor determines that, with respect to any services or benefits referred to in subsection (a), it is not feasible to identify an estimated dollar amount to be obligated for furnishing such services or benefits only to veterans described in that subsection for any fiscal year, the Administrator and the Secretary shall, with respect to an appropriation request for such fiscal year relating to such services or benefits, report to the Committees on Veterans' Affairs of the Senate and the House of Representatives the reasons for the infeasibility. The report shall be submitted contemporaneously with the budget submission for such fiscal year. The report shall specify (1) the information, systems, equipment, or personnel that would be required in order for it to be feasible for the Administrator or the Secretary to identify such amount, and (2) the actions to be taken in order to ensure that it will be feasible to make such an estimate in connection with the submission of the budget request for the next fiscal year.

102 STAT. 4132

TITLE XV—HEALTH CARE

SEC. 1501. READJUSTMENT COUNSELING FACILITIES.

(a) RELOCATIONS FOR CIRCUMSTANCES BEYOND CONTROL OF VETERANS' ADMINISTRATION.—Section 612A(g)(1) is amended—

(1) in subparagraph (A), by striking out "The" and inserting in lieu thereof "Except as provided in subparagraph (C) of this paragraph, the"; and

(2) by adding at the end the following new subparagraph:

"(C) The Administrator may relocate a center in existence on January 1, 1988, without regard to the national plan (including any revision to such plan) if such relocation is to a new location away from a Veterans' Administration general health-care facility when such relocation is necessitated by circumstances beyond the control of the Veterans' Administration. Such a relocation may be carried out only after the end of the 30-day period beginning on the date on which the Administrator notifies the Committees on Veterans' Affairs of the Senate and the House of Representatives of the proposed relocation, of the circumstances making it necessary, and of the reason for the selection of the new site for the center.".

38 USC 612A note.

(b) AUTHORIZATION FOR RELOCATION OF CERTAIN FACILITIES.—The requirements of section 612A(g)(1) of title 38, United States Code, shall not apply with respect to the relocation of 17 Veterans' Administration Readjustment Counseling Service Vet Centers from their locations away from general Veterans' Administration health-care facilities to other such locations, as described in letters dated July 25, 1988, from the Chief Medical Director of the Veterans' Administration to the Chairmen of the Committees on Veterans' Affairs of the Senate and the House of Representatives.

SEC. 1502. CONTRACTS AND GRANTS FOR MEDICAL CARE FOR VETERANS IN THE PHILIPPINES.

(a) ONE-YEAR EXTENSION.—Subsections (a) and (b)(1) of section 632 are each amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(b) INCREASE IN ANNUAL AUTHORIZATION.—Subsection (b)(1) of such section is further amended by striking out "$500,000" and inserting in lieu thereof "$1,000,000,".

(c) REPORTS.—(1) Not later than February 1, 1989, and not later than February 1, 1990, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing detailed information describing the use of funds provided to the Republic of the Philippines under section 632(b) of title 38, United States Code, during the preceding fiscal year.

(2) Not later than May 1, 1989, the Administrator shall submit to those committees a report with respect to the furnishing of health- 102 STAT. 4133
care services to United States veterans in the Republic of the Philippines. That report shall include the following:

(A) Information for each of fiscal years 1986, 1987, and 1988 (shown in total and separately for veterans being furnished care or treatment for service-connected disabilities and veterans being furnished care or treatment for non-service-connected disabilities) as to—

(i) the number of United States veterans furnished care at Veterans' Administration expense pursuant to sections 624 and 632(a) of title 38, United States Code;

(ii) the numbers of inpatient days of care and outpatient visits so furnished for United States veterans; and

(iii) the amounts of such care and visits so furnished at the Veterans Memorial Medical Center or at other facilities in the Republic of the Philippines.

(B) An analysis comparing (i) the cost-effectiveness of furnishing care and treatment to such veterans through the Veterans Memorial Medical Center or other facilities in the Republic of the Philippines, and (ii) the quality of care available at the Center and such other facilities.

(C) A projection of the needs for care and treatment of United States veterans in the Republic of the Philippines during each of fiscal years 1990, 1991, 1992, and 1993.

(D) A projection of the needs of the Veterans Memorial Medical Center for each of those fiscal years for the replacement and upgrading of equipment and the rehabilitation of the physical plant and facilities in order to maintain the provision of an appropriate quality of care for United States veterans at the Veterans Memorial Medical Center.

(E) The plans of the Veterans' Administration for meeting the needs for care and treatment of United States veterans residing in the Philippines.

(F) Any planned administrative action, and any recommendation for legislation, that the Administrator considers appropriate.

(3) The report under paragraph (2) shall include any comment the Secretary of State may wish to make on the contents of the report.

SEC. 1503. TECHNICAL CORRECTIONS.

(a) CORRECTIONS NECESSITATED BY AMENDMENTS MADE BY PUBLIC LAW 100-322.—(1) Section 603(a)(2)(B) is amended—

(A) by striking out "612(a)(4)" and inserting in lieu thereof "paragraph (2), (3), or (4) of section 612(a)"; and

(B) by striking out "612(a)(5)" and inserting in lieu thereof "612(a)(5)(B)".

(2) Section 4114(a) is amended—

(A) in paragraph (1)—

(i) in clause (A), by inserting "pharmacists, occupational therapists," after "vocational nurses,"; and

(ii) in clause (B), by inserting "pharmacists and occupational therapists," after "vocational nurses,"; and

(B) in paragraph (3)(D), by striking out "the category" and all that follows through "vocational nurses" and inserting in lieu

thereof "a category of personnel described in such section 4104(3)".

102 STAT. 4134

(3) Subsections (c) and (d) of section 4323 are each amended by striking out "section 4322(f)" and inserting in lieu thereof "section 4322(e)".

(4) Section 4324 is amended—

(A) in subsection (a)(2)—

(i) by striking out "completion" and all that follows through "quarter" and inserting in lieu thereof "participation in the program";

(ii) by inserting "or is payable" after "paid"; and

(iii) by inserting before the period at the end the following: ", reduced by the proportion that the number of days served for completion of the service obligation bears to the total number of days in the participant's period of obligated service"; and

(B) in subsection (b)—

(i) by striking out paragraph (1); and

(ii) by striking out "(2)".

38 USC 603 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a)(1) shall apply with respect to the furnishing of medical services by contract to veterans who apply to the Veterans' Administration for medical services after June 30, 1988.

38 USC 603 note.

(c) RATIFICATION.—Any action of the Administrator in contracting with facilities other than Veterans' Administration facilities for the furnishing of medical services (as defined in section 601(6) of title 38, United States Code), for the purpose described in section 612(a)(5)(B) of such title, to an individual described in paragraph (2) or (3) of section 612 of title 38, United States Code, who applied to the Veterans' Administration for such services during the period beginning on July 1, 1988, and ending on the date of enactment of this Act is hereby ratified.

SEC. 1504. LAND TRANSFER, RUTHERFORD, TENNESSEE.

(a) AUTHORITY.—Subject to subsections (b) and (c) and any conditions required by the Administrator under subsection (d), the Administrator shall transfer all right, title, and interest of the United States in and to a tract of land consisting of (not to exceed) seven acres, together with improvements thereon, in the Southeast corner of the Alvin C. York Veterans' Administration Medical Center in Rutherford County, Tennessee. Such transfer shall be made without consideration. Such transfer shall be made without regard to section 5022(a)(2)(A) of title 38, United States Code.

(b) PERMITTED USE.—The transfer under subsection (a) may be made only if it is subject to the condition that the property transferred be used by the State of Tennessee for a nursing care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of title 38, United States Code, and that if such property is used at any time for any other purpose, all right, title, and interest in the property shall revert to the United States.

(c) AVAILABILITY OF RESOURCES.—The transfer under subsection (a) may be made only if the Administrator has determined that the State of Tennessee has provided sufficient assurance that it has the resources (including any resources which are reasonably likely to be available to the State under subchapter III of chapter 81 of title 38, United States Code and section 641 of such title) necessary to construct and operate a State home nursing facility.

102 STAT. 4135

(d) ADDITIONAL CONDITIONS.—The transfer under subsection (a) shall be made under such additional terms and conditions as the Administrator considers appropriate to protect the interests of the United States.

SEC. 1505. TRANSFERS OF EXCESS PROPERTIES FOR STATE HOME FACILITY USES.

Section 5022(a) is amended—

(1) in paragraph (2)(A), by striking out "The" and inserting in lieu thereof "Except as provided in paragraph (3) of this subsection, the"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B) of this paragraph, the Administrator may, without regard to paragraph (2) of this subsection or any other provision of law relating to the disposition of real property by the United States, transfer to a State for use as the site of a State home nursing-home or domiciliary facility real property described in subparagraph (E) of the paragraph which the Administrator determines to be excess to the needs of the Veterans' Administration.

"(B) A transfer of real property may not be made under this paragraph unless—

"(i) the Administrator has determined that the State has provided sufficient assurance that it has the resources (including any resources which are reasonably likely to be available to the State under subchapter III of chapter 81 of this title and section 541 of this title) necessary to construct and operate a State home nursing or domiciliary care facility; and

"(ii) the transfer is made subject to the conditions (I) that the property be used by the State for a nursing-home or domiciliary care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of this title, and (II) that, if the property is used at any time for any other purpose, all right, title, and interest in and to the property shall revert to the United States.

"(C) A transfer of real property may not be made under this paragraph until—

"(i) the Administrator submits to the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than June 1 of the year in which the transfer is proposed to be made (or the year preceding that year), a report providing notice of the proposed transfer; and Reports.

"(ii) a period of 90 consecutive days elapses after the report is received by those committees.

"(D) A transfer under this paragraph shall be made under such additional terms and conditions as the Administrator considers appropriate to protect the interests of the United States.

"(E) Real property described in this subparagraph is real property that is owned by the United States and administered by the Veterans' Administration.".

SEC. 1506. CONVERSION OF NON-PHYSICIAN MEDICAL CENTER DIRECTORS TO SENIOR EXECUTIVE SERVICE.

(a) CONVERSION.—Section 4101(e) is amended by striking out "and persons appointed under section 4103(a)(8) of this title".

(b) CONFORMING AMENDMENTS.—(1) Section 4103(a) is amended— 102 STAT. 4136

(A) by striking out paragraph (8); and

(B) by redesignating paragraph (9) as paragraph (8).

(2) Section 4107(c) is amended to read as follows:

"(c) Notwithstanding the provisions of section 4101(e) of this title, any person appointed under section 4103 of this title who is not eligible for special pay under section 4118 of this title shall be deemed to be a career appointee for the purposes of sections 4507 and 5384 of title 5.".

(c) APPLICABILITY TO CURRENT DIRECTORS.—(1) Except as provided in paragraph (2), each person who, on the day before the date of enactment of this Act, holds an appointment as a director under section 4103(a)(8) of title 38, United States Code, shall, on such date of enactment, become a career appointee in the Senior Executive Service established pursuant to chapter 31 of title 5, United States Code. The preceding sentence applies without regard to the provisions of subsections (b), (c), and (e) of section 3393 of title 5, United States Code, or any other provision of law. The provisions of section 38 USC 4103 note.

3393(d) of such title shall not apply to a director who becomes a career appointee pursuant to this paragraph.

(2) Any person who, on the day before the date of the enactment of this Act, holds an appointment as such a director may, not later than 60 days after such enactment date, elect to retain the terms and conditions of that appointment for as long as that person continues to serve as such a director.

38 USC 4103 note.

(d) PRESERVATION OF PAY.—This section and the amendments made by this section shall not result in a reduction in the rate of pay payable to any person.

SEC. 1507. PROCUREMENT THROUGH LOCAL CONTRACTS.

(a) EFFECTIVE DATES OF PROVISIONS ENACTED IN PUBLIC LAW 100-322.—Section 403(b)(1) of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 545) is amended by striking out "Subsection (b)(1)" and inserting in lieu thereof "Subsections (a), (b)(1), and (b)(2)".

38 USC 5025 note.

(b) TRANSITION TO CERTAIN REPORT REQUIREMENTS.—Section 5025(d) is amended—

(1) in paragraph (1), by inserting "(beginning in 1992)" after "of each year";

(2) in paragraph (2), by inserting "(beginning in 1993)" after "of each year"; and

(3) by adding at the end the following new paragraph:

"(3) Not later than February 1 of each year from 1989 through 1992, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out this section during the preceding fiscal year. The first such report shall contain information showing the percentage (measured by cost) of the total of all health-care items procured by the Veterans' Administration during fiscal year 1988 that were procured through local contracts. The other reports under this paragraph shall contain information showing the percentage (measured by cost) of the total of all health-care items procured by the Veterans' Administration, and by each Veterans' Administration medical center, during the fiscal year covered by the report that were purchased through local contracts and, in the case of each medical center at which the percentage was greater than 20 percent, an explanation of the reasons why that occurred.".

102 STAT. 4137

(c) DEFINITION OF HEALTH-CARE ITEM.—Section 5025(e)(1) is amended—

(1) by striking out "65, 66, or 73" and inserting in lieu thereof "65 or 66"; and

(2) by inserting after the first sentence the following new sentence: "Effective December 1, 1992, such term also includes any item listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 73.".

SEC. 1508. STANDARDIZATION OF COVERAGE OF MEDICAL AND PHARMACEUTICAL ITEMS.

38 USC 5025 note.

Section 402 of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 543) is amended in the first sentence by striking out "medical and pharmaceutical items" and inserting in lieu thereof "health-care items (as defined in section 5025(e)(1) of title 38, United States Code)".

SEC. 1509. TECHNICAL CLARIFICATION OF PERIOD OF CLINICAL EVALUATION OF ALCOHOL AND DRUG ABUSE PROGRAM.

Section 620A(f)(1) (as amended by section 502 of the Veterans' Benefits and Programs Improvement Act of 1988) is amended by striking out "before October 1, 1997" and inserting in lieu thereof "during the period beginning on December 1, 1988, and ending on October 1, 1997".

TITLE XVI—CEMETERY AND MEMORIAL PROVISIONS

SEC. 1601. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR STATE CEMETERY GRANT PROGRAM.

Paragraph (2) of section 1008(a) is amended by striking out "four" the second place it appears and inserting in lieu thereof "nine".

SEC. 1602. PACIFIC WAR MEMORIAL AND OTHER HISTORICAL AND MEMORIAL SITES ON CORREGIDOR IN THE REPUBLIC OF THE PHILIPPINES. 36 USC 125b.

(a) OPERATION BY ABMC.—Subject to subsection (b) and to the agreement referred to in such subsection, the American Battle Monuments Commission shall restore, operate, and maintain the Pacific War Memorial and other historical and memorial sites on Corregidor in the Republic of the Philippines.

(b) CONDITION.—The Commission may carry out this section only after an agreement has been entered into between the Republic of the Philippines and the United States with respect to the restoration, operation, and maintenance of the Memorial and other historical and memorial sites referred to in subsection (a).

(c) PERSONNEL.—The Commission may employ personnel as may be necessary to carry out this section.

(d) USE OF OTHER AGENCIES.—Departments, agencies, and other instrumentalities of the United States are authorized to assist the Commission, on a reimbursable basis, in carrying out this section.

(e) FUNDING.—The American Battle Monuments Commission shall carry out this section with private funds except to the extent funds are appropriated pursuant to subsection (h).

(f) AUTHORITY TO SOLICIT FUNDS.—For the purpose of carrying out this section, the Commission may solicit and accept private contributions and shall deposit such contributions in the fund established by subsection (g).

(g) FUND.—(1) There is hereby established in the Treasury a fund which shall be available to the American Battle Monuments Commission only for carrying out this section. The fund shall consist of—

(A) amounts deposited into, and interest and proceeds credited to, the fund under paragraph (2); and

(B) obligations obtained under paragraph (3).

(2) The Chairman of the Commission shall deposit into the fund the amounts that are accepted under subsection (f). The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

(3) The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Chairman of the Commission, is not required to meet current expenses. Each investment shall be made in an interest-bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairman of the Commission, has a maturity suitable for the fund.

(4) Amounts in the fund that are in excess of the costs of carrying out this section, as determined by the Chairman of the Commission, shall be deposited in the Treasury as miscellaneous receipts to reimburse the United States for funds appropriated pursuant to subsection (h).

(h) AUTHORIZATION OF FUNDING.—There are hereby authorized to be appropriated—

(1) $6,000,000 for site preparation, design, planning, construction, and associated administrative costs for the restoration of the Memorial and other historical and memorial sites referred to in subsection (a); and

(2) such sums as may be necessary for the operation and maintenance of such Memorial and other historical and memorial sites.

Approved November 18, 1988.

LEGISLATIVE HISTORY—S. 11 (H.R. 5288):

HOUSE REPORTS: No. 100-963, Pt. 1, accompanying H.R. 5288 (Comm. on Veterans' Affairs).
SENATE REPORTS: No. 100-418 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 11, considered and passed Senate.
Oct. 3, H.R. 5288 considered and passed House; proceedings vacated and S. 11, amended, passed in lieu.
Oct. 18, Senate concurred in certain House amendment with an amendment and disagreed to another.
Oct. 19, House receded and concurred in Senate amendment with amendments.
Oct. 20, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Nov. 18, Presidential statement.

102 STAT. 4161 Public Law 100-689
100th Congress

An Act

Nov. 18, 1988
[S. 2049]

To amend title 38, United States Code, to improve the education, home loan guaranty, and other programs of the Veterans' Administration; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Benefits and Programs Improvement Act of 1988.
Armed Forces.
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Benefits and Programs Improvement Act of 1988".

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EDUCATION PROGRAMS

PART A—PROVISIONS RELATING TO MONTGOMERY GI BILL AND CERTAIN OTHER EDUCATION PROGRAMS

SEC. 101. MONTGOMERY GI BILL DEATH BENEFIT.

(a) IN GENERAL.—Subchapter II of chapter 30 is amended by adding at the end the following new section:

"§ 1417. Death benefit

"(a)(1) In the event of the service-connected death of any individual—

"(A) who—

"(i) is entitled to basic educational assistance under this chapter; or

"(ii) is on active duty in the Armed Forces and but for section 1411(a)(1)(A)(i) or division (i) or (ii) of section 1412(a)(1)(A) of this title would be eligible for such basic educational assistance; and

"(B) who dies while on active duty,

the convenience of the Government, or (v) involuntarily for the
102 STAT. 4163 convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

"(B) The requirement of four years of service under clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section is not applicable to an individual—

"(i) who, during the two years of service described in clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section, was discharged or released from active duty in the Armed Forces for a service-connected disability or for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected, if the individual was obligated, at the beginning of such two years of service, to serve such four years of service; or

"(ii) who, during the four years of service described in clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section, is discharged or released from service in the Selected Reserve (I) for a service-connected disability, (II) for a medical condition which preexisted the individual's becoming a member of the Selected Reserve and which the Administrator determines is not service connected, (III) for hardship, (IV) in the case of an individual discharged or released after 30 months of such service, for the convenience of the Government, or (V) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.".

(B) Paragraphs (1)(A)(i) and (1)(B)(i) of section 1412(a) are each amended by inserting ", subject to subsection (b) of this section," after "Forces".

(2) Section 1413(a)(2) is amended by inserting "or (III)" after "section 1411(a)(1)(A)(ii)(I)" and after "section 1411(a)(1)(B)(ii)(I)" the first place each appears.

(3) Clause (F) of section 3103A(b)(3) is amended to read as follows:

"(F) to benefits under chapter 30 of this title by reason of—

"(i) a discharge or release from active duty for the convenience of the Government, as described in sections 1411(a)(1)(A)(ii)(II) and 1412(b)(1)(A)(iv) of this title;

"(ii) a discharge or release from active duty for a medical condition which preexisted service on active duty and which the Administrator determines is not service connected, as described in clauses (A)(ii)(I) and (B)(ii)(I) of section 1411(a)(1) of this title and in section 1412(b)(1)(A)(ii) of this title; or

"(iii) an involuntary discharge or release from active duty for the convenience of the Government as a result of a reduction in force, as described in clauses (A)(ii)(III) and (B)(ii)(III) of section 1411(a)(1) of this title and in section 1412(b)(1)(A)(v) of this title.".

38 USC 1411 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect—

(1) as of July 1, 1985, with respect to individuals discharged or
102 STAT. 4164 released for a medical condition which preexisted service on active duty or in the Selected Reserve and which the Administrator determines is not service connected; and

(2) as of October 1, 1987, with respect to individuals involuntarily discharged or released for the convenience of the Government as a result of a reduction in force.

except that an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree; and".

(b) SELECTED RESERVE PARTICIPANTS.—Section 1412(a)(2) is amended—

(1) by striking out "received" and inserting in lieu thereof "completed the requirements of"; and

(2) by inserting the following before the semicolon: ", except that an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree".

SEC. 105. CHOICE OF MONTGOMERY GI BILL BENEFITS FOR CERTAIN RESERVISTS.

Section 1412 is amended by adding at the end the following new subsection:

"(e)(1) An individual described in subclause (I) or (III) of subsection (b)(1)(B)(ii) of this section may elect entitlement to basic educational assistance under section 1411 of this title, based on an initial obligated period of active duty of two years, in lieu of entitlement to assistance under this section.

"(2) An individual who makes the election described in paragraph (1) of this subsection shall, for all purposes of this chapter, be considered entitled to educational assistance under section 1411 of this title and not under this section. Such an election is irrevocable.".

SEC. 106. REFRESHER, REMEDIAL, AND DEFICIENCY COURSES.

(a) MONTGOMERY GI BILL ACTIVE DUTY PROGRAM.—Subsection (a) of section 1434 is amended— 102 STAT. 4167

(1) by inserting "(1)" before "Except";

(2) by designating the second sentence as paragraph (2) thereof;

(3) in paragraph (2) (as so designated), by striking out "those provisions" and inserting in lieu thereof "the provisions of the sections enumerated in paragraph (1) of this subsection"; and

(4) by adding at the end the following new paragraph:

"(3) The Administrator may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is 'already qualified', and pursuant to such regulations as the Administrator shall prescribe, approve the enrollment of such individual in refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have occurred in the individual's field of employment), deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education.". Regulations.

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—Section 1641 is amended—

(1) in subsection (a), by—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

"(2) The Administrator may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is 'already qualified', and pursuant to such regulations as the Administrator shall prescribe, approve the enrollment of such individual in refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have Regulations.

the Administrator shall make a payment, subject to paragraph (2)(B) of this subsection, in the amount described in subsection (b) of this section to the person or persons described in paragraph (2)(A) of this subsection.

"(2)(A) The payment referred to in paragraph (1) of this subsection shall be made to the person or persons first listed below who is surviving on the date of such individual's death:

"(i) The beneficiary or beneficiaries designated by such individual under the individual's Servicemen's Group Life Insurance policy.

"(ii) The surviving spouse of the individual.

"(iii) The surviving child or children of the individual, in equal shares.

"(iv) The surviving parent or parents of the individual, in equal shares.

"(B) If no such person survives such individual, no payment shall be made under this section.

"(b) The amount of any payment made under this section shall be equal to—

"(1) the amount reduced from the individual's pay under section 1411(b), 1412(c), or 1418(c) of this title, less

"(2) the total of—

"(A) the amount of educational assistance that has been paid to the individual under this chapter before the payment is made under this section; and

"(B) the amount of accrued benefits paid or payable with respect to such individual in connection with this chapter.

"(c) A payment under this section shall be considered to be a benefit under this title and, for purposes of section 1435(b)(1), it shall be considered to be an entitlement earned under this subchapter.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 30 is amended by adding at the end the following new item:

"1417. Death benefit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of July 1, 1985. 38 USC 1417 note.

102 STAT. 4162

SEC. 102. MONTGOMERY GI BILL ELIGIBILITY FOR INDIVIDUALS DISCHARGED FOR PRESERVICE MEDICAL CONDITIONS OR DUE TO REDUCTIONS IN FORCE.

(a) IN GENERAL.—Section 1411(a)(1) is amended—

(1) in clauses (A)(ii)(I) and (B)(ii)(I), by inserting after "disability" the following: ", for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected,";

(2) in clauses (A)(ii) and (B)(ii), by striking out ", or (II)" and inserting in lieu thereof "; (II)"; and

(3) by inserting before "; or" at the end of clause (A)(ii) and before the semicolon at the end of clause (B)(ii) the following: "; or (III) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy". Uniformed services.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—(1)(A) Section 1412(b)(1) is amended to read as follows:

"(b)(1)(A) The requirement of two years of service under clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section is not applicable to an individual who is discharged or released, during such two years, from active duty in the Armed Forces (i) for a service-connected disability, (ii) for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected, (iii) for hardship, (iv) in the case of an individual discharged or released after 20 months of such service, for Uniformed services.

SEC. 103. OPPORTUNITY FOR MONTGOMERY GI BILL ENROLLMENT FOR CERTAIN ACTIVE-DUTY NONPARTICIPANTS.

(a) IN GENERAL.—Subchapter II of chapter 30 is amended by adding at the end the following new section (after the section added by section 101(a) of this Act):

"§ 1418. Opportunity for certain active-duty personnel to withdraw election not to enroll

"(a) Notwithstanding any other provision of this chapter, during the period beginning December 1, 1988, and ending June 30, 1989 (hereinafter in this section referred to as the 'open period'), an individual who—

"(1) first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces during the period beginning July 1, 1985, and ending June 30, 1988;

"(2) has continuously served on active duty without a break in service since the date the individual first became such a member or first entered on active duty as such a member; and

"(3) is serving on active duty during the open period,

shall have the opportunity, in accordance with this section and on such form as the Secretary shall prescribe, to withdraw an election made under section 1411(c)(1) or 1412(d)(1) of this title not to receive educational assistance under this chapter.

"(b) An individual described in clauses (1) through (3) of subsection (a) of this section who made an election under section 1411(c)(1) or 1412(d)(1) of this title and who—

"(1) while serving on active duty during the open period, makes a withdrawal of such an election;

"(2) continues to serve the period of service which, at the beginning of the open period, such individual was obligated to serve;

"(3)(A) serves the obligated period of service described in clause (2) of this subsection;

"(B) before completing such obligated period of service, is discharged or released from active duty for (i) a service-connected disability, (ii) a medical condition which preexisted such service and which the Administrator determines is not service connected, or (iii) hardship; or

"(C) before completing such obligated period of service, is (i) discharged or released from active duty for the convenience of the Government after completing not less than 20 months of such period of service, if such period was less than three years, or 30 months, if such period was at least three years, or (ii) involuntarily discharged or released from active duty for the convenience of the Government as a result of a reduction in force, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense;

"(4) before completing such obligated period of service, has completed the requirements of a secondary school diploma (or an equivalency certificate); and

"(5) upon completion of such obligated period of service— 102 STAT. 4165

"(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

"(B) continues on active duty; or

"(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service,

is entitled to basic educational assistance under this chapter.

"(c) The basic pay of an individual withdrawing, under subsection (b)(1) of this section, an election under section 1411(c)(1) or 1412(d)(1) of this title shall be reduced by—

"(1) $1,200; or

"(2) in the case of an individual described in clause (B) or (C) of subsection (b)(3) of this section whose discharge or release from active duty prevents the reduction of the basic pay of such individual by $1,200, an amount less than $1,200.

"(d) A withdrawal under subsection (b)(1) of this section is irrevocable.".

(b) CONFORMING AMENDMENTS.—(1) The second sentence of section 1411(b) and of section 1412(c) are each amended by striking out "subsection" and inserting in lieu thereof "chapter".

(2) Section 1413 is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by inserting after subsection (b) the following new subsection:

"(c)(1) Subject to section 1795 of this title and except as provided in paragraph (2) of this subsection, each individual entitled to basic educational assistance under section 1418 of this title is entitled to 36 months of educational assistance under this chapter (or the equivalent thereof in part-time educational assistance).

"(2) Subject to section 1795 of this title, an individual described in clause (B) or (C) of section 1418(b)(3) of this title whose discharge or release from active duty prevents the reduction of the basic pay of such individual by $1,200 is entitled to the number of months of assistance under this chapter that is equal to the lesser of—

"(A) 36 multiplied by a fraction the numerator of which is the amount by which the basic pay of the individual has been reduced under section 1418(c) and the denominator of which is $1,200; or

"(B) the number of months the individual has served on continuous active duty after June 30, 1985.".

(3) Section 1415(b) is amended by inserting "or 1418" after "section 1411".

(4) Section 1416 is amended by adding at the end the following new subsection:

"(c) A member of the Armed Forces who—

"(1) completes at least two years of service on active duty after June 30, 1985;

"(2) after such service continues on active duty without a break in service; and

"(3) but for section 1418(b)(3)(A) of this title would be entitled to basic educational assistance under this chapter,

may receive such assistance for enrollment in an approved program of education while continuing to perform the service described in section 1418(b)(2) of this title.".

102 STAT. 4166

(5) Section 1421 is amended—

(A) in subsection (a) in the matter preceding clause (1), by inserting "or 1418" after "section 1411"; and

(B) in subsection (b) in the matter preceding clause (1), by inserting "or 1418" after "section 1412".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 30 is amended by adding the following new item (after the item added by section 101(b) of this Act):

"1418. Opportunity for certain active-duty personnel to withdraw election not to enroll.".

SEC. 104. MONTGOMERY GI BILL SECONDARY SCHOOL DIPLOMA REQUIREMENTS.

(a) ACTIVE DUTY PARTICIPANTS.—Clause (2) of section 1411(a) is amended to read as follows:

"(2) who completed the requirements of a secondary school diploma (or equivalency certificate) not later than—

"(A) the original ending date of the individual's initial obligated period of active duty in the case of an individual described in clause (1)(A) of this subsection, regardless of whether the individual is discharged or released from active duty on such date; or

"(B) December 31, 1989, in the case of an individual described in clause (1)(B) of this subsection;

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(3) The table of sections for subchapter II of chapter 30 is amended by adding the following new item (after the item added by section 103(c) of this Act):

"1419. Tutorial assistance.".

(b) POST-VIETNAM ERA EDUCATIONAL ASSISTANCE PROGRAM.—(1) Subchapter III of chapter 32 is amended by inserting after section 1633 the following new section:

"§ 1634. Tutorial assistance

"(a) An individual entitled to benefits under this chapter shall also be entitled to the benefits provided an eligible veteran under section 1692 of this title, subject to the conditions applicable to an eligible veteran under such section. Any amount paid to an individual under this section shall be in addition to the amount of other benefits paid under this chapter.

"(b) An individual's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of educational assistance paid to the individual under this section in excess of $600.

"(c) An individual's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of $600 that is equal to the amount of monthly educational assistance the individual is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.

"(d) Payments of benefits under this section shall be made—

"(1) in the case of the first $600 of such benefits paid to an individual, from funds appropriated, or otherwise available, to the Veterans' Administration for the payment of readjustment benefits; and

"(2) in the case of payments to an individual for such benefits in excess of $600, from the fund from contributions made to the fund by the veteran and by the Secretary of Defense in the same proportion as these contributions are used to pay other educational assistance to the individual under this chapter.".

(2) The table of sections for subchapter III of chapter 32 is amended by inserting after the item relating to section 1633 the following new item:

"1634. Tutorial assistance".

(c) INCREASE IN MAXIMUM TUTORIAL ASSISTANCE PAYMENTS.—(1) Section 1692(b) is amended by striking out "$84" and "$1,008" and inserting in lieu thereof "$100" and "$1,200", respectively.

(2)(A) The heading of section 1692 is amended to read as follows:

"§ 1692. Tutorial assistance".

(B) The item relating to section 1692 in the table of sections at the beginning of chapter 34 is amended to read as follows:

"1692. Tutorial assistance".

SEC. 108. COOPERATIVE TRAINING.

(a) MONTGOMERY GI BILL.—(1) Section 1402(3)(B) is amended—

(A) by inserting "(i)" before "a full-time"; and

(B) by inserting before the period at the end ", and (ii) a cooperative program (as defined in section 1682(a)(2) of this title)".

(2) Section 1432 is amended by adding at the end the following new subsection:

"(d)(1) The amount of the monthly educational assistance allowance payable to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly allowance otherwise payable to such individual under section 1415 and section 1422, if applicable, of this title.

"(2) For each month that an individual is paid a monthly educational assistance allowance for pursuit of a cooperative program under this chapter, the individual's entitlement under this chapter shall be charged at the rate of 80 percent of a month.".

(b) POST-VIETNAM-ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—(1) Section 1602(2)(B) is amended—

(A) by inserting "(i)" after "includes"; and

(B) by inserting after "of this title" the following: ", and (ii) in the case of an individual who is not serving on active duty, a cooperative program (as defined in section 1682(a)(2) of this title)".

102 STAT. 4170

(2) Section 1631 is amended by adding at the end the following new subsection:

"(d)(1) The amount of the monthly benefit payment to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly benefit otherwise payable to such individual (computed on the basis of the formula provided in subsection (a)(2) of this section).

"(2) For each month that an individual is paid a monthly benefit payment for pursuit of a cooperative program under this chapter, the individual's entitlement under this chapter shall be charged at the rate 80 percent of a month.".

38 USC 1402 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1989.

SEC. 109. EXTENSION OF DELIMITING PERIODS BY REASON OF ALCOHOL CONDITIONS.

Section 105 is amended by adding at the end the following new subsection:

"(c) For the purposes of any provision relating to the extension of a delimiting period under any education-benefit or rehabilitation program administered by the Veterans' Administration, the disabling effects of chronic alcoholism shall not be considered to be the result of willful misconduct.".

SEC. 110. MONTGOMERY GI BILL SELECTED RESERVE PROGRAM.

(a) PAYMENT FOR LESS THAN HALF-TIME PURSUIT OF A PROGRAM OF EDUCATION.—Section 2131(b) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof "; and"; and

(3) by inserting at the end the following new clause:

Regulations.

"(4) an appropriately reduced rate, as determined under regulations which the Administrator of Veterans' Affairs shall prescribe, for each month of less than half-time pursuit of a program of education, except that no payment may be made to a person for less than half-time pursuit if tuition assistance is otherwise available to the person for such pursuit from the military department concerned.".

(b) TIME OF ELIGIBILITY.—Section 2132(b) of such title is amended to read as follows:

"(b) Educational assistance may not be provided to a member under this chapter until the member has completed the initial period of active duty for training required of the member.".

SEC. 111. TECHNICAL AMENDMENTS.

(a) TITLE 38 AMENDMENTS.—Title 38 is amended as follows:

(1) Section 1402(3)(B) is amended by striking out "includes" and inserting in lieu thereof "in the case of an individual who is not serving on active duty, includes".

(2)(A) Section 1411(a)(1)(A)(i)(I) is amended by inserting ", as the individual's initial obligated period of active duty," after "serves".

102 STAT. 4171

(B) Section 1412(a)(1)(A)(i) is amended by inserting ", as the individual's initial obligated period of active duty," after "serves".

(3) Section 1411 is amended by adding the following new subsection at the end:

occurred in the individual's field of employment), deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education."; and

(2) in subsection (b), by striking out "1691(a)(1)" and inserting in lieu thereof "1691(a) (other than clause (1))".

(c) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE PROGRAM.—Subsection (a) of section 1733 is amended to read as follows:

"(a)(1) Any eligible person shall be entitled to the benefits provided an eligible veteran (with no dependents) under section 1691 (if pursued in a State) of this title.

"(2) Educational assistance under this chapter for the first five months of full-time pursuit of a program (or the equivalent thereof in part-time educational assistance) consisting of such course or courses shall be provided without charge to entitlement.".

38 USC 1434 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on August 15, 1989.

SEC. 107. TUTORIAL ASSISTANCE.

(a) ASSISTANCE UNDER THE MONTGOMERY GI BILL FOR ACTIVE-DUTY PARTICIPANTS.—(1) Subchapter II of chapter 30 is amended by adding at the end the following new section (after the section added by section 103(a) of this Act):

102 STAT. 4168

"§ 1419. Tutorial assistance

"(a) An individual entitled to an educational assistance allowance under this chapter shall also be entitled to benefits provided an eligible veteran under section 1692 of this title, subject to the conditions applicable to an eligible veteran under such section.

"(b) The amount of such benefits payable under this section may not exceed $100 per month, for a maximum of twelve months, or until a maximum of $1,200 is utilized. This amount is in addition to the amount of educational assistance allowance payable to the individual under this chapter.

"(c)(1) An individual's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of tutorial assistance paid to the individual under this section in excess of $600.

"(2) An individual's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of $600 that is equal to the amount of the monthly educational assistance allowance which the individual is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.".

(2) Section 1435 is amended by adding at the end the following:

"(e) Payments for tutorial assistance benefits under section 1419 of this title shall be made—

"(1) in the case of the first $600 of such benefits paid to an individual, from funds appropriated, or otherwise available, to the Veterans' Administration for the payment of readjustment benefits; and

"(2) in the case of payments to an individual for such benefits in excess of $600, from—

"(A) funds appropriated, or otherwise available, to the Veterans' Administration for the payment of readjustment benefits;

"(B) the Department of Defense Education Benefits Fund established under section 2006 of title 10; and

"(C) funds appropriated to the Department of Transportation,

in the same proportion as the Fund described in subclause (B) of this clause and the funds described in subclause (A) or (C) of this clause are used to pay the educational assistance allowance to the individual under this chapter.".

"(d)(1) For purposes of this chapter, any period of service described in paragraph (2) of this subsection shall not be considered a part of an individual's initial obligated period of active duty.

"(2) The period of service referred to in paragraph (1) is any period terminated because of a defective enlistment and induction based on—

"(A) the individual's being a minor for purposes of service in the Armed Forces;

"(B) an erroneous enlistment or induction; or

"(C) a defective enlistment agreement.".

(4) Section 1413 is amended—

(A) in subsection (a)(2)—

(i) by striking out "In" and inserting in lieu thereof "Subject to section 1795 of this title and subsection (c) of this section, in"; and

(ii) by striking out "active duty" and all that follows through the period and inserting in lieu thereof "continuous active duty served by such individual after June 30, 1985, as part of the individual's initial obligated period of active duty in the case of an individual described in section 1411(a)(1)(B)(ii) (I) or (III) of this title, or in the case of an individual described in section 1411(a)(1)(B)(ii) (I) or (III) of this title, after June 30, 1985."; and

(B) in subsection (b)(1), by striking out "active duty" and all that follows through "title, and" and inserting in lieu thereof "continuous active duty served by such individual after June 30, 1985, as part of the individual's initial obligated period of active duty in the case of an individual described in section 1412(a)(1)(A) of this title, or in the case of an individual described in section 1412(a)(1)(B) of this title, after June 30, 1985, and".

(5)(A) Section 1415(a) is amended by striking out "Subject" and all that follows through "except" and inserting in lieu thereof "The amount of payment of educational assistance under this chapter is subject to section 1432 of this title. Except".

(B) Section 1422(a) is amended by striking out "Subject" and all that follows through "except" and inserting in lieu thereof "The amount of payment of educational assistance under this chapter is subject to section 1432 of this title. Except".

(6) Section 1431(a) is amended by striking out "beginning on" and all that follows through the period and inserting in lieu thereof the following: "beginning on the date of such individual's last discharge or release from active duty, except that such 10-year period shall begin—

"(1) in the case of an individual who becomes entitled to such assistance under clause (A) or (B) of section 1412(a)(1) of this title, on the later of the date of such individual's last discharge or release from active duty or the date on which the four-year requirement described in clause (A)(ii) or (B)(ii), respectively, of such section 1412(a)(1) is met; and 102 STAT. 4172

"(2) in the case of an individual who becomes entitled to such assistance under section 1411(a)(1)(B), on the later of the date of such individual's last discharge or release from active duty or January 1, 1990.".

(7)(A) Section 1432 is amended by adding at the end the following new subsection (after the subsection added by section 108(a)(2) of this Act):

"(e)(1)(A) The amount of the educational assistance allowance payable under this chapter to an individual who enters into an agreement to pursue, and is pursuing, a program of education exclusively by correspondence is an amount equal to 55 percent of the established charge which the institution requires nonveterans to pay for the course or courses pursued by such individual. Contracts.

"(B) For purposes of this paragraph, the term 'established charge' means the lesser of—

"(i) the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency; or

"(ii) the actual charge to the individual for such course or courses.

"(2) Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the individual and serviced by the institution.

"(3) In each case in which the rate of payment to an individual is determined under paragraph (1) of this subsection, the period of entitlement of such individual under this chapter shall be charged at the rate of one month for each payment of educational assistance to the individual that is equal to the amount of monthly educational assistance the individual would otherwise be eligible to receive for full-time pursuit of an institutional course under this chapter.".

(B) Section 1434 (as amended by section 106(a) of this Act) is amended—

(i) in subsection (a)(1), by inserting "1786(a)," after "1780(g),";

(ii) by striking out subsection (c); and

(iii) by redesignating subsection (d) as subsection (c).

(8) Section 1432(c)(3) is amended—

(A) by striking out "For" and inserting in lieu thereof "(A) Except as provided in subparagraph (B) of this paragraph, for";

(B) by redesignating clauses (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(C) by adding at the end the following new subparagraph:

"(B) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2) of this subsection.".

(9) Section 1673(d) is amended—

(A) by inserting "or under chapter 106 of title 10" before the period at the end of the first sentence; and

(B) by inserting "or under chapter 106 of title 10" after "of this title" in the third sentence.

(b) CHAPTER 106 AMENDMENTS.—Chapter 106 of title 10, United States Code, is amended as follows:

(1) Section 2131(c)(2) is amended by inserting before the period at the end the following: "(or the equivalent thereof in part-time educational assistance)".

102 STAT. 4173

(2) Section 2132(a)(2) is amended—

(A) by striking out "received" and inserting in lieu thereof "completed the requirements of"; and

(B) by inserting before the semicolon the following: ", or in the case of an individual who reenlists or extends an enlistment as described in paragraph (1)(A) of this subsection, has completed such requirements at any time before such reenlistment or extension".

(3) Section 2132(c) is amended by adding the following sentence at the end: "At the request of the Administrator of Veterans' Affairs, the Secretary of Defense shall transmit a notice of entitlement for each such person to the Administrator.".

(4) Section 2132(d) is amended to read as follows:

"(d) An individual who serves in the Selected Reserve may not receive credit for such service under both the program established by chapter 30 of title 38 and the program established by this chapter but shall elect (in such form and manner as the Administrator of Veterans' Affairs may prescribe) the program to which such service is to be credited.".

(5) Section 2133 is amended—

(A) in subsection (a), by striking out "section" and inserting in lieu thereof "chapter";

(B) in subsection (b), by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by adding as paragraph (1) the following new paragraph:

"(b)(1) In the case of a person separated from the Selected Reserve because of a disability which was not the result of the individual's own willful misconduct incurred on or after the date on which such person became entitled to educational assistance under this chapter, the period for using entitlement prescribed by subsection (a) shall be determined without regard to clause (2) of such subsection."; and

(C) in paragraph (2) of subsection (b), as redesignated by subparagraph (B) of this paragraph, strike out "1431(e)" and insert in lieu thereof "1431(f)".

(6) Section 2135 is amended—

(A) in subsection (a)(1), by inserting ", and during which the member has received such assistance," after "chapter"; and

(B) by striking out clause (A) of subsection (b)(1) and inserting in lieu thereof the following:

"(A) the number of months of obligated service the person has remaining under the agreement entered into under section 2131(a) of this title divided by the original number of months of such obligation; and".

PART B—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 121. COURSE WITHDRAWALS.

(a) IN GENERAL.—Section 1780(a)(4) is amended by inserting after "circumstances" the following: ", except that, in the first instance of withdrawal by an eligible veteran or person from a course or courses with respect to which such veteran or person has been paid assistance under this title, mitigating circumstances shall be considered to exist with respect to courses totaling not more than six semester hours or the equivalent thereof".

102 STAT. 4174

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply so as to require that mitigating circumstances be considered to exist only with respect to withdrawals from a course or courses being pursued with assistance under title 38, United States Code, that occur on or after June 1, 1989.

38 USC 1780 note.

SEC. 122. EDUCATIONAL ASSISTANCE FOR CERTAIN INCARCERATED VETERANS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.

Section 1631 is amended by adding at the end the following new subsection (after the subsection added by section 108(b)(2) of this Act):

"(e)(1) Subject to the provisions of paragraph (2) of this subsection, the amount of the educational assistance benefits paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed the lesser of (A) such amount as the Administrator determines, in accordance with regulations which the Administrator shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and the cost of necessary supplies, books, and equipment, or (B) the applicable monthly benefit payment otherwise prescribed in this section or section 1633 of this title. The amount of the educational assistance benefits payable to a veteran while so incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program.

Regulations.

"(2) Paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a program of education under this

chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony.".

SEC. 122. VETERANS' ADVISORY COMMITTEE ON EDUCATION.

Section 1792(c) is amended by striking out "December 31, 1989" and inserting in lieu thereof "December 31, 1993".

SEC. 124. REPEAL OF EXPIRED PROGRAM OF ACCELERATED-PAYMENT LOANS.

(a) REPEAL.—Sections 1682A, 1686, 1737, and 1738 are repealed.

(b) CONFORMING AMENDMENTS.—Section 1798 is amended—

(1) by striking out "or person" each place it appears;

(2) in subsection (a)(1)—

(A) by striking out "and eligible person"; and

(B) by inserting "(if the program of education is pursued in a State)" after "subchapter";

(3) in subsection (b)—

(A) in paragraph (1), by striking out "or eligible person"; and

(B) in paragraph (3), by striking out "or subchapter II of chapter 35, respectively,";

(4) in subsection (e)—

102 STAT. 4175

(A) in paragraph (2), by striking out "or person's"; and

(B) by amending paragraph (3)(B) to read as follows:

"(B) data regarding the default experience and default rate with respect to loans made under this section.";

(5) in subsection (f)—

(A) by striking out paragraphs (1) and (3); and

(B) by striking out "(2)"; and

(6) in subsection (g)(2)(A)—

(A) in the first sentence, by striking out "and eligible persons"; and

(B) in the second sentence, by striking out "or eligible person".

(c) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 34 is amended by striking out the items relating to sections 1682A and 1686.

(2) The table of sections at the beginning of chapter 35 is amended by striking out the items relating to sections 1737 and 1738.

(3) The table of sections at the beginning of chapter 36 is amended by striking out the heading relating to subchapter III and inserting in lieu thereof the following:

"SUBCHAPTER III—EDUCATION LOANS".

(4) Chapter 36 is amended by striking out the heading for subchapter III and inserting in lieu thereof the following:

"SUBCHAPTER III—EDUCATION LOANS".

TITLE II—REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

SEC. 201. TRAINING AND WORK EXPERIENCE WITHOUT PAY IN STATE AND LOCAL GOVERNMENT AGENCIES.

Section 1515 is amended—

(1) in subsection (a)(1), by inserting ", or of any State or local government agency receiving Federal financial assistance," after "Administration)".

(2) in subsection (b)—

(A) in paragraph (1), by inserting "at a Federal agency" after "section"; and

(B) by striking out paragraph (3) and inserting in lieu thereof:

"(3) Use of the facilities of a State or local government agency under subsection (a)(1) of this section or use of facilities and services under subsection (a)(4) of this section, shall be procured through contract, agreement, or other cooperative arrangement. Contracts.

"(4) The Administrator shall prescribe regulations providing for the monitoring of training and work experiences provided under such subsection (a)(1) at State or local government agencies and otherwise ensuring that such training or work experience is in the best interest of the veteran and the Federal Government.". Regulations.

SEC. 202. USE OF FOR-PROFIT ORGANIZATIONS FOR EMPLOYMENT ASSISTANCE AND INDEPENDENT LIVING PROGRAMS.

(a) EMPLOYMENT ASSISTANCE.—Section 1517(a)(2)(C) is amended—

(1) by striking out "and" at the end of subclause (iii); and

(2) by inserting before the period at the end ", and (v) any for-profit entity in a case in which the Administrator has determined that services necessary to provide such assistance are available from such entity and that comparably effective services are not available, or cannot be obtained cost-effectively, from the entities described in subclauses (i) through (iv) of this clause.". 102 STAT. 4176

(b) INDEPENDENT LIVING PROGRAMS.—Section 1520(a) is amended—

(1) in paragraph (1), by striking out "public" and all that follows through "organizations" and inserting in lieu thereof "entities described in paragraph (7) of this subsection"; and

(2) by adding at the end the following new paragraph:

"(7) Entities described in this paragraph are (A) public or nonprofit agencies or organizations, and (B) for-profit entities in cases in which the Administrator determines that services comparable in effectiveness to services available from such an entity are not available, or cannot be obtained cost-effectively from, public or nonprofit agencies or through facilities of the Department of Medicine and Surgery.".

TITLE III—HOME LOAN GUARANTY PROGRAM

SEC. 301. INTEREST RATE REQUIREMENTS FOR VENDEE LOANS.

Section 1833(a) is amended by adding at the end the following new paragraph:

"(7) The Administrator shall make a loan to finance the sale of real property described in paragraph (1) of this subsection at an interest rate that is lower than the prevailing mortgage market interest rate in areas where, and to the extent, the Administrator determines, in light of prevailing conditions in the real estate market involved, that such lower interest rate is necessary in order to market the property competitively and is in the interest of the long-term stability and solvency of the Veterans' Administration Loan Guaranty Revolving Fund established by section 1824(a) of this title.". Real property.

SEC. 302. CREDITWORTHINESS DETERMINATIONS AND FEES WITH RESPECT TO ASSUMPTIONS OF VENDEE LOANS.

Section 1814 is amended—

(1) in subsection (a)(1), in the matter preceding clause (A)—

(A) by striking out "If" and inserting in lieu thereof "Except as provided in subsection (f) of this section, if"; and

(B) by striking out "guaranteed, insured, or direct housing loan obtained by a veteran" and inserting in lieu thereof "loan guaranteed, insured, or made"; and

(2) by striking out subsection (f) and inserting in lieu thereof the following:

"(f)(1) This section shall apply—

"(A) in the case of loans other than loans to finance the purchase of real property described in section 1833(a)(1) of this title, only to loans for which commitments are made on or after March 1, 1988; and

"(B) in the case of loans to finance the purchase of such property, only to loans which are closed more than 45 days after the date of the enactment of the Veterans' Benefits and Programs Improvement Act of 1988.

"(2) This section shall not apply to a loan which the Administrator has sold without recourse.". 102 STAT. 4177

SEC. 303. AUTHORITY FOR INCREASED PROCUREMENT OF SERVICES THROUGH THE LOAN GUARANTY REVOLVING FUND.

Section 1824 is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding subsection (b) of this section, the Fund shall be available to the Administrator, to such extent as is or in such amounts as are provided for in appropriation Acts and subject to paragraph (3) of this subsection, for—

"(A) contracts for the performance of such supplementary services described in paragraph (2) of this subsection for which the Administrator is otherwise authorized to contract; and

"(B) the acquisition of such supplementary equipment described in such paragraph,

(not including services or equipment for which the Fund is available under subsection (b) of this section), as the Administrator determines would assist in ensuring the long-term stability and solvency of the Fund.

"(2) The supplementary services and equipment referred to in paragraph (1) of this subsection are services or equipment not performed or available during fiscal year 1988, or services in excess of the level of such services performed during fiscal year 1988, and may include, among other things, the services of—

"(A) appraisers to review appraisal reports and issue certificates of reasonable value;

"(B) loan-servicing companies and individuals to perform personal supplemental servicing of loans guaranteed, insured, or made under this chapter;

"(C) accounting firms to conduct on-site audits of lenders making such loans and to review lender submissions regarding such loans;

Real property. "(D) real estate brokers to promote the sale of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter;

"(E) contractors to review loan documents in order to achieve compliance with Veterans' Administration requirements under this chapter and to issue guaranty certifications;

Real property. "(F) contractors to list for sale in local newspapers real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter;

"(G) contractors to prepare closing documents and review them after closing; and

"(H) contractors to provide automated data processing equipment, supplies, services, and software for carrying out the program administered under this chapter.

"(3) The Administrator may not in any fiscal year obligate more than $25,000,000 for services or equipment under this subsection.".

TITLE IV—EMPLOYMENT

SEC. 401. VETERANS PREFERENCE WITHIN LOCAL HIRE OF ALASKA CONSERVATION SYSTEM UNITS.

Section 1308 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3198) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection: 102 STAT. 4178

"(b) PREFERENCE ELIGIBLES WITHIN LOCAL HIRE.—Notwithstanding the provisions of subsection (a), any individual who is eligible to be selected for a position under the provisions of subsection (a) and is a preference eligible as defined in section 2108(3) of title 5, United States Code, shall be given an employment preference, consistent with the preference in the competitive service as defined in section 2102 of such title for which such person is eligible under subchapter I of chapter 33 of such title, in selection to such position.".

SEC. 402. COORDINATION OF INFORMATION AND ASSISTANCE. 29 USC 1721 note.

(a) PURPOSE.—It is the purpose of this section to ensure that veterans who are dislocated workers eligible for assistance under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) or are otherwise unemployed receive, to the extent feasible, assistance (including information on vocational guidance or vocational counseling, or information on both vocational guidance or vocational counseling), including information on counseling, needed by such veterans—

(1) to apply for services and benefits for which they are eligible as veterans, dislocated workers, or unemployed persons;

(2) to obtain resolution of questions and problems relating to such services and benefit; and

(3) to initiate any authorized administrative appeals of determinations or other actions relating to such services and benefits.

(b) MEMORANDUM OF UNDERSTANDING.—(1) Not later than one year after the date of the enactment of this Act, the Secretary of Labor and the Administrator of Veterans' Affairs shall enter into a memorandum of understanding to carry out the purpose of this section. The memorandum shall include provisions that define the relationships and responsibilities of the Veterans' Administration, the Department of Labor, and State and local agencies with respect to the provision of the following information, forms, and assistance:

(A) Information on services and benefits referred to in subsection (d).

(B) All application forms and related forms necessary for individuals to apply for such services and to claim such benefits.

(C) Assistance in resolving questions and problems relating to receipt of such services and benefits.

(D) Assistance in contacting other Federal Government offices and State offices where such services or benefits are provided or administered.

(2) The memorandum of understanding entered into pursuant to paragraph (1) shall include a provision for the periodic evaluation, by the Secretary of Labor and the Administrator of Veterans' Affairs, of the implementation of their respective responsibilities under such memorandum.

(c) COORDINATION OF DEPARTMENT OF LABOR ACTIVITIES.—The Assistant Secretary of Labor for Veterans' Employment and Training, in consultation with the office designated or created under section 322(b) of the Job Training Partnership Act, shall, except as the Secretary of Labor may otherwise direct, coordinate the activities of the components of the Department of Labor performing the responsibilities of the Secretary of Labor under this section. 102 STAT. 4179

(d) COVERED SERVICES AND BENEFITS.—This section applies with respect to the following services and benefits:

(1) Employment assistance under—

(A) part C of title IV of the Job Training Partnership Act (96 Stat. 1380; 29 U.S.C. 1721 et seq.); and

(B) the Veterans' Job Training Act (97 Stat. 443; 29 U.S.C. 1721 note).

(2) Employment and training assistance for dislocated workers under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.).

(3) Employment assistance and unemployment compensation under the trade adjustment assistance program provided in chapter 2 of title II of the Trade Act of 1974 (29 U.S.C. 2271 et seq.) and under any other program administered by the Employment and Training Administration of the Department of Labor.

(4) Educational assistance under—

(A) the Adult Education Act (20 U.S.C. 1201 et seq.); and

(B) chapters 30, 31, 32, 34, and 35 of title 38, United States Code, and chapter 106 of title 10, United States Code.

(5) Certification of a veteran as a member of a targeted group eligible for the targeted jobs credit determined under section 51 of the Internal Revenue Code of 1986.

(e) DEFINITION.—In this section, the term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

TITLE V—EXTENSIONS OF CERTAIN AUTHORITIES

SEC. 501. CONTINUED OPERATION OF VETERANS' ADMINISTRATION REGIONAL OFFICE IN THE PHILIPPINES.

(a) THREE-YEAR EXTENSION.—Section 230(b) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1991".

38 USC 230 note.

(b) RATIFICATION FOR LAPSED PERIOD.—Any action by the Administrator of Veterans' Affairs in providing, during the period beginning on October 1, 1988, and ending on the date of the enactment of this Act, for a Veterans' Administration Regional Office in the Republic of the Philippines under section 230 of title 38, United States Code, is hereby ratified with respect to that period.

SEC. 502. ALCOHOL AND DRUG TREATMENT PROGRAM.

(a) THREE-YEAR EXTENSION.—(1) Subsection (e) of section 620A is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1991".

38 USC 620A note.

(2) Any action by the Administrator of Veterans' Affairs in providing, during the period beginning on October 1, 1988, and ending on the date of the enactment of this Act, for care and treatment and rehabilitative services under section 620A of title 38, United States Code, is hereby ratified with respect to that period.

(b) CLINICAL EVALUATION AND REPORTS.—Subsection (f) of such section is amended to read as follows:

"(f)(1) During the period before October 1, 1997, the Administrator shall conduct an ongoing clinical evaluation in order to determine the long-term results of drug and alcohol abuse treatment furnished to veterans in contract residential treatment facilities under this section.

102 STAT. 4180

"(2) The evaluation shall include an assessment of the following:

"(A) The long-term results of treatment referred to in paragraph (1) of this subsection on drug and alcohol use by veterans who may have received such treatment.

"(B) The need for hospitalization of such veterans for drug and alcohol abuse after completion of the residential treatment.

"(C) The employment status and income of such veterans.

"(D) The extent of any criminal activity of such veterans.

"(E) Whether certain models and methods of residential treatment for drug and alcohol abuse are more successful for veterans with specific abuses, specific levels of resources available to them, and specific needs than are other models and methods.

"(3) To the extent feasible, the Administrator shall select for consideration in the evaluation veterans whose treatment for drug and alcohol abuse in contract residential treatment facilities under such section represents a variety of models and methods of residential drug and alcohol abuse treatment.

"(4) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives the following reports on the evaluation under this subsection:

"(A) Not later than February 1, 1993, an interim report containing information obtained during the first four years of the evaluation and any conclusions that the Administrator has drawn on the basis of that information.

"(B) Not later than March 31, 1998, a final report containing information obtained during the evaluation and the determinations and conclusions of the Administrator based on that information.".

Approved November 18, 1988.

LEGISLATIVE HISTORY—S. 2049:

SENATE REPORTS: No. 100-323 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 28, considered and passed Senate.
Oct. 12, considered and passed House, amended.
Oct. 20, Senate concurred in House amendments.

○

RECAPITULATION OF MISCELLANEOUS PRIVATE ACTS, 100TH CONGRESS, 2D SESSION

Number of Private Law	Payee	Amount
	FISCAL YEAR 1988	
100–9	James P. Purvis	$700,000.00
100–15	Marsha D. Christopher	Indefinite
100–16	Shriners Hospitals for Crippled Children, a Colorado corporation	[1] −200,000.00
100–17	Thomas Wilson	1,269.40
	Total fiscal year 1988 (net)	501,269.40
	FISCAL YEAR 1989	
100–24	Allen H. Platnick	1,756.02
100–26	Travis D. Jackson	Indefinite
100–30	John M. Gill	15,000.00
100–33	Jean DeYoung	Indefinite
100–37	United States Property and Fiscal Officer for the State of Massachusetts	101,622.20
100–43	Virgil Neal Scott	5,670.77
	Nathaniel Scott, Junior	5,670.77
	Charles Henry Scott	5,670.77
	Sandra Scott Wade	5,670.77
	James Milton Scott	5,670.77
	George Leonard Scott	5,670.77
	Kathy Scott Skipper	5,670.77
100–44	Calvin L. Graham	[2] 4,916.99
100–45	Lawrence K. Lunt	307,092.50
100–46	Rick Hangartner	6,900.45
	Russell Stewart	8,398.82
	David Walden	8,268.75
100–47	Fleurette Seidman	5,500.00
	Total fiscal year 1989	499,150.92
	Total, 2d session, 100th Congress (net)	1,000,420.32

[1] In consideration of the quitclaim deed release for lands which were formerly owned by the United States, the Shriners Hospitals for Crippled Children shall pay to the United States the sum of $200,000.

[2] And indefinite.

Oliver Wendell Holmes Devise Fund:

This fund created by the act entitled "An act to establish a Permanent Committee for the Oliver Wendell Holmes Devise," approved August 5, 1955, is to be used for the preparation of a history of the Supreme Court, finance lectures, and prepare a memorial volume containing the writings of Oliver Wendell Holmes *(69 Stat. 533)* $4,000

OTHER LEGISLATIVE BRANCH AGENCIES

International conferences and contingencies: House and Senate expenses:

This account provides funds to cover the expenses of House and Senate participants in international meetings 290,000

Total, Legislative *$136,992,000*

EXECUTIVE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL DEVELOPMENT ASSISTANCE

Housing and other credit guaranty programs:

Extends guaranties to assist developing countries in formulating and executing sound housing and community development policies that meet the needs of lower income groups *(98 Stat. 1884, 1903)* 22,000,000

Total, Funds Appropriated to the President *$22,000,000*

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

Price support and related programs: Reimbursement for net realized losses:

To reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to the Act of August 17, 1961 *(15 U.S.C. 713a-4)* ..... [1] *(15,533,425,000)*

National Wool Act

The National Wool Act of 1954 (title VII of Public Law 690, approved August 28, 1954) as amended by the Agricultural Act of 1970 and the Food and Agriculture Act of 1977 declares wool to be an essential and strategic commodity, and as a measure of national security encourages the annual domestic production of approximately 300 million pounds of shorn wool. In order to encourage the required annual production of wool and mohair, the Secretary is authorized to make sufficient incentive payments which, when added to the national average price received by producers, will give them a national average return for the commodity equal to the support (incentive) price level thereof. Payments may not at any time exceed 70 percent of the accumulated totals of the gross receipts from specific duties collected on and after January 1, 1953, on wool and wool manufacturers under schedule 11 of the Tariff Act of 1930, as amended *(Public Law 690 approved August 28, 1954, as amended)* 124,925,000

RURAL ELECTRIFICATION ADMINISTRATION

Rural Telephone Bank:

Provides a supplemental source of financing for the REA telephone loan program. The bank charges an interest rate based on the average cost of money to the bank, but not less than 5 percent per annum *(7 U.S.C. 901-950(b))* 129,890,000

FARMERS HOME ADMINISTRATION

Agricultural Credit Insurance Fund:

The Agricultural Credit Insurance Fund and its associated loan programs are authorized by title III of the consolidated Farm and Rural Development Act, as amended. The fund is used to insure or guarantee farm ownership, soil and water, farm operating, and emergency loans to individuals *(7 U.S.C. 1929(c))* 2,152,402,000

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[1] Excluded from totals for this table. Included in H.R. 4784 (P.L. 100-460), Rural Development, Agriculture, and Related Agencies Appropriation Bill, 1989, as "current, indefinite" appropriations.

AGRICULTURAL MARKETING SERVICE

Perishable Agricultural Commodities Act Fund:

License fees are deposited in this special fund and are used to meet costs of administering the Perishable Agricultural Commodities, and the Produce Agency Acts *(7 U.S.C. 491-497, 499a-499s)*. The current annual license fee is set at $300 plus $150 for each additional business facility operated by the applicant in excess of nine facilities, up to a maximum of $3,000 ..... $5,329,000

Funds for strengthening markets, income, and supply:

Under section 32 of the act of August 24, 1935, as amended (7 U.S.C. 612c), 30 percent of customs receipts collected during each calendar year are automatically appropriated for expanding outlets for nonbasic commodities. An amount equal to 30 percent of receipts collected on fishery products is transferred to the Department of Commerce to encourage the distribution of such products. Most of the funds are transferred to the Food and Nutrition Service and are dedicated to commodity distribution activities under section 6 of the National School Lunch Act and other authorities specified in the child nutrition appropriations 403,261,000

FOOD AND NUTRITION SERVICE

Child nutrition programs:

Authorized by the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended. Primary objective of programs is to make the best possible nutrition available to every child and the elderly, regardless of economics of the child's family or the local district, *(42 U.S.C. 1751-1761, and 1766; 1773-1785, and 1787)* 4,093,272,000

FOREST SERVICE

Operation and maintenance of quarters:

Quarterly rental deductions are collected from employees occupying Forest Service facilities. Amounts are deposited into a special fund and are available for the maintenance and operation of employee occupied quarters 5,869,000

Brush disposal:

Amounts received from purchasers of national forest timber to cover the estimated cost to the United States of disposing of the brush and other debris resulting from cutting operations are covered into the Treasury as a special fund, for expenses of this work. Amounts paid in excess of the cost are refunded to the purchaser or transferred to miscellaneous receipts *(16 U.S.C. 490)* 54,680,000

Licensee programs:

Fees for the use of the character "Smokey Bear" and "Woodsey Owl" by private enterprises are collected under regulations promulgated by the Secretary, and are available for furthering the nationwide forest-fire prevention and environmental quality programs *(16 U.S.C. 580(2); 16 U.S.C. 580(1))* 109,000

Restoration of forest lands and improvements:

Funds received from settlement of claims involving damage to lands or improvements and from forfeiture of deposits and bonds by permittees and timber purchasers are used for the restoration made necessary by the action which led to the settlement or forfeiture *(16 U.S.C. 579c)* 107,000

Timber purchaser roads constructed by Forest Service:

Expenditure of timber receipts for Government constructed permanent roads for purchasers of timber who qualify as small businesses and elect to have the Forest Service construct the roads designated under the timber sale contract where costs exceed $20,000 *(16 U.S.C. 472a(i))* 9,837,000

Timber salvage sales:

Appropriations of funds to begin salvage of insect-infested, dead, damaged, or down timber, and to remove associated trees for stand improvement in accordance with Public Law 95-26 *(16 U.S.C. 472a(h))* 27,000,000

Payment to Minnesota (Cook, Lake, and St. Louis Counties) from the National Forest Fund:

Under the act of June 22, 1948, the Secretary of the Treasury, upon certification of the Secretary of Agriculture, pays to the State of Minnesota at the close of each fiscal year an amount equivalent to three-fourths of 1 percent of the apraised value of certain Superior National Forest lands in the counties of Cook, Lake, and St. Louis for distribution to these counties *(16 U.S.C. 577g)* 716,000

II. PERMANENT APPROPRIATIONS—FEDERAL FUNDS

(For permanent trust funds, see table III)

COMPILER'S NOTE.—The text and amounts of these permanent appropriations are taken from the budget for the fiscal year 1989. These are funds that do not require current annual action by the Congress, but rather become available automatically under earlier laws. The amounts shown are for *indefinite* appropriations unless indicated to be definite. The amounts shown for indefinite appropriations are estimated and are thus subject to revision as better data becomes available during the fiscal year.

LEGISLATIVE

SENATE

Compensation of Members:

A permanent appropriation effective beginning with fiscal year 1983 and continuing each year thereafter, for the compensation of the Vice President and Senators as well as for the payment of agency contributions for life and health insurance and retirement benefits. This permanent appropriation was established by section 130(c) of Public Law 97-51, approved October 1, 1981 *(95 Stat. 966)* making continuing appropriations for fiscal year 1982. Prior to fiscal year 1983, the salaries of the Vice President and Senators and the related agency contributions were paid from appropriations made annually in the regular Legislative Branch Appropriations Act $11,676,000

HOUSE OF REPRESENTATIVES

Compensation of Members and related administrative expenses:

A permanent appropriation effective beginning with fiscal year 1983 and continuing each year thereafter, for the compensation of Members of Congress and for administrative expenses related thereto as authorized by law and at such level recommended by the President for Federal employees. This permanent appropriation was established by section 130(c) of Public Law 97-51, approved October 1, 1981 *(95 Stat. 966)* making continuing appropriations for fiscal year 1982. Prior to fiscal year 1983, the salaries of Members of Congress were paid from appropriations made annually in the regular Legislative Branch Appropriations Act 50,250,000

Congressional use of foreign currency:

The International Security Assistance Act of 1978, Public Law 95-384 (92 Stat. 742), effective September 26, 1978, provided that local currencies owned by the United States be made available to Members and employees of Congress while traveling in a foreign country. Whenever local currencies are not available, the Secretary of the Treasury is authorized to purchase such local currencies as may be necessary. In addition, this act authorized the permanent and indefinite appropriation, "Congressional use of foreign currency." Prior to this act, authority was contained in section 502(b) of the Mutual Security Act of 1954 *(2 U.S.C. 1954(b))* 3,360,000

LIBRARY OF CONGRESS

Payments to copyright owners:

Receipts from cable television stations and juke-box licenses are disbursed to the copyright owners through this appropriation after deduction of administrative expenses of the Copyright Royalty Tribunal. Disbursements are made in accordance with the schedule established in Public Law 94-553 71,412,000

Payments to counties, national grasslands:
Of the revenues received from the use of National Grasslands, 25 percent is paid to the counties in which such land is situated for funding local schools and roads *(7 U.S.C. 1012)* $10,929,000

Payments to States from the National Forest Fund:
The act of June 9, 1930, appropriates 25 percent of the net revenue during any fiscal year from each national forest, to be paid at the end of such year, to the State in which the forest is situated, for the benefit of the public schools and public roads of such county or counties *(16 U.S.C. 500)* 294,788,000

Total, Department of Agriculture *$7,313,114,000*

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Promote and develop fishery products and research pertaining to American fisheries:
To offset the cost of marine fishery resource programs in the Operations, Research, and Facilities account 56,300,000

Total, Department of Commerce *$56,300,000*

DEPARTMENT OF DEFENSE—MILITARY

MILITARY CONSTRUCTION

Military construction, Army:
For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander-in-Chief *(10 U.S.C. 2675, 2802-05, 2807, 2828, 2851-54, 2857)* 214,000,000

FAMILY HOUSING

Homeowners Assistance Fund:
For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 *(Public Law 89-754, as amended)* 3,000,000

Total, Department of Defense—Military *$217,000,000*

DEPARTMENT OF DEFENSE—CIVIL

CORPS OF ENGINEERS—CIVIL

Hydraulic mining in California, Debris Fund:
Fees paid by mine operators in the Sacramento and San Joaquin Basins for depositing mine debris in restraining works are used for their maintenance *(33 U.S.C. 683)* 48,000

Maintenance and operation of dams and other improvements of navigable waters:
Indefinite appropriation of 50 percent of receipts from certain licenses under the Federal Power Act to be received and appropriated as a special fund in the Treasury for expenditure under the direction of the Secretary of the Army in the maintenance and operation of dams and other navigation structures owned by the United States or for other improvements of navigable waters *(31 U.S.C. 725c)* 2,952,000

Payments to States:
Seventy-five percent of moneys received on account of leases of lands acquired in connection with flood-control projects is appropriated at the end of each fiscal year for payment to the State in which the property is situated, to be expended as the State legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which the property is situated *(33 U.S.C. 701c-3)* 6,000,000

MILITARY RETIREMENT

Payment to Military Retirement Fund:
The 1989 payment to the Military Retirement Fund includes funds for the amortization of the unfunded liability for all retirement benefits earned by military personnel for service prior to 1985. The amortization schedule for the unfunded liability will be determined by the DOD Retirement Board of Actuaries 10,648,000,000

FOREST AND WILDLIFE CONSERVATION, MILITARY RESERVATIONS

Forest Products Program reserve account:
These appropriations provide for emergencies or unplanned expenses in managing and improving forests on DOD lands $2,000,000

Wildlife conservation, Army:
Proceeds from the sale of fish and game permits on Army installations are used to carry out a program of planning, development, maintenance, and coordination of wildlife, fish and game conservation, and rehabilitation on military reservations 1,350,000

Wildlife conservation, Navy:
Proceeds from the sale of fish and game permits on naval installations are used to carry out a program of fish and wildlife conservation, management, and rehabilitation in cooperation with appropriate State agencies and the Fish and Wildlife Service, Department of the Interior *(74 Stat. 1052)* 250,000

Wildlife conservation, Air Force:
Proceeds from the sale of game permits are used to carry out a program of fish and game conservation and rehabilitation in connection with the Fish and Wildlife Service *(63 Stat. 759)* 450,000

Total, Department of Defense—Civil *$10,661,050,000*

DEPARTMENT OF EDUCATION

OFFICE OF VOCATIONAL AND ADULT EDUCATION

Vocational and adult education:
This program provides funds for expansion and improvement of vocational education programs and for providing for greater access to underserved populations 7,148,000

Total, Department of Education *$7,148,000*

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

Clean Coal Technology:
This program was authorized under the Clean Coal Technology Reserve proviso of Public Law 98-473 to subsidize the construction and operation of facilities to demonstrate the commercial feasibility of such technologies 525,000,000

Payments to States under Federal Power Act:
The States are paid 37.5 percent of the receipts from licenses for occupancy and use of national forests and public lands within their boundaries issued by the Federal Energy Regulatory Commission *(16 U.S.C. 810)* 1,909,000

POWER MARKETING ADMINISTRATION

Bonneville Power Administration Fund:
The Bonneville Power Administration constructs, operates, and maintains transmission and related facilities and markets electric power produced at 30 Federal hydroelectric generating plants and obtained by purchase and exchange from two thermal plants 136,000,000

Total, Department of Energy *$662,909,000*

GENERAL SERVICES ADMINISTRATION

PERSONAL PROPERTY ACTIVITIES

Expenses of transportation audit contracts and contract administration:
Public Law 99-88 provides that these activities shall be financed from overcharges collected from carriers on transportation bills paid by the Government and other similar type refunds 15,000,000

FEDERAL PROPERTY RESOURCES ACTIVITIES

Expenses, disposal of surplus real and related personal property:
Fees and costs of advertising and surveying are paid out of the receipts from the disposal of surplus real and related property, subject to a limitation of 12 percent of the proceeds of all dispositions with each fiscal year *(40 U.S.C. 485(b))* 3,668,000

Total, General Services Administration *$18,668,000*

Department of Health and Human Services

HEALTH RESOURCES AND SERVICES ADMINISTRATION

Indian Health Service:

Provides medical care, public health services, and health profession scholarship for American Indians and Alaska Natives $3,000,000

HEALTH CARE FINANCING ADMINISTRATION

Grants to States for Medicaid:

Medicaid assists States in providing medical care to their low-income population by granting Federal matching payments under title XIX of the Social Security Act to States with approved plans 8,000,000,000

Payments to health care trust funds:

Payments are made (1) to the Supplementary Medical Insurance Trust Fund; (2) to the Federal Hospital Insurance Trust Fund as reimbursement for benefits based on noncontributory military service credits of veterans of World War II and certain veterans of the post-World War II period; (3) for individuals aged 65 and over who meet certain transitional insured status requirements; and (4) for civil service employees and annuitants who had worked before 1983 and who were employed during January 1983 541,000,000

SOCIAL SECURITY ADMINISTRATION

Payments to Social Security trust funds:

This Federal fund appropriation finances certain benefits and related administrative costs not financed by Social Security taxes 6,253,165,000

Special benefits for disabled coal miners:

Title IV of the Federal Mine Safety and Health Act authorizes monthly benefits to coal miners disabled from pneumoconiosis, and to surviving widows and dependents. After 1973, jurisdiction for new claims shifted to the Department of Labor 250,000,000

Supplemental security income program:

Title XVI of the Social Security Act established the Federal Supplemental Security Income (SSI) program for the aged, blind, and disabled. In 1988, the supplemental security income program provided a minimum income of $354 per month for an eligible individual and $532 per month for an eligible couple 3,000,000,000

FAMILY SUPPORT ADMINISTRATION

Family support payments to States:

This appropriation makes grants to States for the Federal share of State expenditures for aid to families with dependent children (AFDC), child support enforcement, and related activities 2,500,000,000

Interim assistance to States for legalization:

Transitional grants are given to States for providing financial, medical and educational assistance to newly legalized aliens. Federal administrative expenses are included in this appropriation 645,000,000

Total, Department of Health and Human Services $21,192,165,000

Department of Housing and Urban Development

HOUSING PROGRAMS

Manufactured home inspection and monitoring:

A program to establish and enforce appropriate construction standards for the construction, design, and performance of manufactured homes to assure their quality, durability, and safety 6,475,000

Interstate land sales:

The Interstate Land Sales Full Disclosure Act provides protection to the public with respect to purchases or leases of subdivision lots. Statements of record must be filed with the Secretary before subdivisions with 100 or more lots may be sold in interstate commerce, except when the subdivision is eligible for exemption 600,000

Federal Housing Administration Fund:

The Federal Housing Administration Fund, created by the National Housing Act of 1934, is a noncorporate business-type agency, which was brought under the Government Corporation Control Act by the Housing Act of 1948. FHA program objectives are achieved through the insurance of loans for financing the production, purchase, repair, and improvement of residential properties and these programs are under four separate insurance funds established by statute. Income from fees, premiums, and investments are credited to the funds and operating expenses including expenses and losses connected with foreclosed property and defaulted notes and mortgages are charged to the funds *(12 U.S.C. 1701)* $719,600,000

PUBLIC AND INDIAN HOUSING PROGRAMS

Low-rent public housing—loans and other expenses:

The Low-Rent Public Housing Loan Fund provides direct Federal loans to support Public Housing Agency (PHA) and Indian Housing Authority (IHA) construction, acquisition, and modernization activities. These loans are made from available resources of this fund 955,900,000

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

Management and liquidating functions fund:

The Association is required to manage and liquidate its initial mortgage portfolio and other mortgages, loans or obligations 269,500,000

Total, Department of Housing and Urban Development $1,952,075,000

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

Special acquisition of lands and minerals:

This account represents the monetary value of the quarterly adjustments to bidding rights issued under the authority of Public Law 96-476 as required by section 7 of the Lee Metcalf Wilderness and Management Act of 1983. The bidding rights may be used as monetary credits against that portion of any coal lease bonus payments, rentals or royalties payable under the Mineral Leasing Act of 1920, and retained by the Federal Government, on any Federal coal lease won or otherwise held by the holder 1,300,000

Operation and maintenance of quarters:

Provides for the maintenance of quarters used by Bureau employees in areas where other housing alternatives are unavailable. Expenses are offset by collections in the form of rental payments. Established in 1986 under provisions of the 1985 Interior Appropriations Act 250,000

Payments to Oklahoma (royalties):

Payment of 37½ percent of Red River oil and gas royalties in lieu of State and local taxes on tribal land *(65 Stat. 252)* 6,000

Payments to Coos and Douglas Counties, OR, from receipts, Coos Bay Wagon Road grant lands:

Out of receipts from the Coos Bay Wagon Road grant lands in Oregon, payments in lieu of taxes are made to Coos and Douglas Counties for schools, roads, highways, bridges, and port districts *(53 Stat. 753-754)* 580,000

Payments to counties, Oregon and California grant lands:

Fifty percent of the receipts of Oregon and California land grant funds are paid to the counties in which the lands are situated, to be used as other county funds *(39 Stat. 218; 50 Stat. 876)* 71,400,000

Payments to States from sales of lands:

Payments to the several States of 5 percent of the net proceeds of sales of public lands and materials lying within their limits, for the purpose of education or of making public roads and improvements *(31 U.S.C. 1305)* 772,000

Payments to States from grazing receipts, et cetera, public lands outside grazing districts:

Payments are made to the States of 50 percent of the money received as grazing fees from outside grazing districts *(43 U.S.C. 315i, 315m)* 985,000

Payments to States from grazing receipts, et cetera, public lands within grazing districts:

Payments are made to the States of 12½ percent of moneys received as grazing fees from within grazing districts *(43 U.S.C. 315b; 315i)* $1,514,000

Payments to States from grazing receipts, et cetera, public lands within grazing districts, miscellaneous:

The States are paid specifically determined amounts from grazing fee receipts from miscellaneous lands within grazing districts when payment is not feasible on a percentage basis *(43 U.S.C. 315)* 3,000

Payments to Alaska National Petroleum Reserve:

Alaska is paid 50 percent of the receipts derived from bonuses, royalties, and rentals resulting from the leasing of oil and gas in the National Petroleum Reserve in Alaska *(94 Stat. 2964)* 1,350,000

Payments to counties, national grasslands:

Of the revenues received from the use of submarginal lands, 25 percent is paid to the counties in which such land is situated for school and road purposes. These lands were formerly administered by the Department of Agriculture but were transferred to the Bureau of Land Management for administration in connection with the Grazing Program *(7 U.S.C. 1012)* 500,000

Expenses, road maintenance deposits:

Public Law 94-579 approved October 21, 1976, permanently appropriated certain moneys to the Secretary of the Interior. Users of roads under jurisdiction of the Bureau of Land Management may make deposits for maintenance purposes, and moneys collected are available for necessary road maintenance. Moneys collected on Oregon and California grant lands are available for those lands only *(43 U.S.C. 1701 et seq.)* 6,500,000

Payments to Nevada from receipts on land sales:

Public Law 96-586 authorizes and directs the Secretary to sell not more than 700 acres of public lands per calendar year in and around Las Vegas, NV; proceeds of which are to be used to acquire environmentally sensitive lands in the Lake Tahoe Basin of California and Nevada. Annual revenues are distributed to the State of Nevada (5 percent) and the county in which the land is located (10 percent) 600,000

MINERALS MANAGEMENT SERVICE

Payments to States from receipts under Mineral Leasing Act:

Alaska is paid 90 percent and other States 50 percent of the receipts from bonuses, royalties, and rentals resulting from development of mineral resources under the Mineral Leasing Act *(30 U.S.C. 191)*, and from leases of potash deposits *(30 U.S.C. 285)*, on both public domain and acquired lands 438,522,000

BUREAU OF RECLAMATION

Colorado River Dam Fund, Boulder Canyon project:

Revenue from Boulder Canyon project operations is placed in this fund. Due to a recent change in law (Public Law 98-381), the fund is available without further appropriation for payment of expenses of operation and maintenance of the project, for payment of interest on amounts advanced from the Treasury, and for annual payments of not more than $300 thousand each to Arizona and Nevada and for repayment of advances from the Treasury for construction or other purposes *(43 U.S.C. 617a)* 40,832,000

Operation, maintenance, and replacement of project works, North Platte project (Gering and Fort Laramie, Goshen, and Pathfinder irrigation districts):

This fund is derived from the revenues arising from leasing or project grazing and farm lands, sale or rental of surplus water, and other miscellaneous revenues which otherwise would accrue to the Gering and Fort Laramie, Goshen, and Pathfinder irrigation districts under subsections I to J of section 4 of the act of December 5, 1924 *(43 Stat. 703)*, and such revenues may be expended, as set forth in contracts with the above districts, for the replacement of the project works operated and maintained by the United States and to supplement funds advanced by the water users to meet annual costs of operation and maintenance of such works *(66 Stat. 755, sec. 4)* 9,000

Payments to farmers' irrigation district (North Platte project, Nebraska-Wyoming):

Payments are made to the farmer's irrigation district on behalf of the Northport irrigation district for water carriage *(62 Stat. 273, as amended)* 8,000

Payments to local units, Klamath Reclamation Area:
Certain revenues collected from the leasing of Klamath project reserved Federal lands within the boundaries of certain national wildlife refuges will be used for various purposes *(78 Stat. 850)* $250,000

Operation and maintenance of quarters, Fort Simcoe Job Corps Center:
Receipts from the rental of quarters are used for the operation and maintenance of those quarters *(Public Law 98-473)* 15,000

GEOLOGICAL SURVEY

Surveys, investigations and research:
Ammortization fees for telecommunication services for replacement and expansion 250,000

Operations and maintenance of quarters:
Under the provisions of Public Law 98-473, this account was established to receive rental receipts to remain available until expended for operation and maintenance of 18 quarters located at geomagnetic or seismic observatories 75,000

U.S. FISH AND WILDLIFE SERVICE

Migratory bird conservation account:
Receipts in excess of Postal Service expenses from the sale of migratory bird hunting and conservation stamps, 70 percent of entrance fee collections on national wildlife refuges, and import duties on arms and ammunition are available for costs of locating and acquiring migratory bird refuges and waterfowl production areas 29,378,000

National Wildlife Refuge Fund:
The Refuge Revenue Sharing Act authorizes the expenditure of revenues from the sale of products from the Fish and Wildlife Service facilities. Part of the net proceeds from sales of refuge products, either 25 percent or 0.75 percent of the value of lands acquired in fee in each case of each refuge, is paid to counties in which refuges are located for benefit of public schools and roads. The remainder of the revenue is available for management of the refuge system and for enforcement of the Migratory Bird Treaty Act *(16 U.S.C. 715s)* 6,040,000

Operation and maintenance of quarters:
Revenues from rental of government quarters are deposited in this account for use in the operation and maintenance of such quarters for the Fish and Wildlife Service *(Public Law 98-473, section 320)* 1,727,000

Federal aid in wildlife restoration:
States, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands are allocated funds equal to the 11 percent excise tax on sporting arms and ammunition, the 10 percent excise tax on handguns, and the 11 percent tax on certain archery equipment. States are reimbursed up to 75 percent of the cost of approved wildlife and hunter education projects 119,000,000

Proceeds from sales, water resources development projects:
Receipts collected from the sale of products from refuges on which other agencies have primary jurisdiction pay the costs of producing these products and for managing wildlife habitat 200,000

NATIONAL PARK SERVICE

Land acquisition:
Provides funds to acquire certain lands, or interests in land, for inclusion in the National Park System in order to preserve nationally important natural and historic resources *(16 U.S.C. 4601-10a)* 30,000,000

Operation and maintenance of quarters:
Revenues from the rental of Government-owned quarters to park employees are deposited in this account and used to operate and maintain the quarters 8,829,000

Educational expenses, children of employees, Yellowstone National Park:
Revenues received from visitors to the park are used to provide educational facilities to pupils who are dependents of persons engaged in the operation of Yellowstone National Park *(16 U.S.C. 40a)* 590,000

Payment for tax losses on land acquired for Grand Teton National Park:
Park fees are used to compensate the State of Wyoming for tax losses on lands acquired for Grand Teton National Park *(16 U.S.C. 406d-3)* 39,000

Operation, management, maintenance, and demolition of federally acquired properties, Independence National Historic Park:

Moneys collected from rental operations of the Irwin Building were used for the operation, management, and maintenance of this building and its subsequent demolition, as authorized in the act approved October 26, 1951 *(65 Stat. 664)*.... $15,000

Delaware Water Gap, Route 209 operations:

Fees collected for use of Route 209 within the Delaware Water Gap National Recreation Area by commercial vehicles are used for management, operation, and maintenance of the route within the park *(97 Stat. 329)*..... 425,000

BUREAU OF INDIAN AFFAIRS

Operation and maintenance of quarters:

Public Law 88-459 is the basic authority under which the Secretary utilizes quarters rentals funds to defer the costs incidental to the employee quarters program. Public Law 98-473 established a special fund, to remain available until expended, for the operation and maintenance of quarters..... 7,000,000

Claims and treaty obligations:

For fulfilling treaties with the Senecas and Six Nations of New York, Pawnees of Oklahoma, and payments to the Indians of the Sioux reservations *(4 Stat. 442; 7 Stat. 46, 98, 210, 234; 11 Stat. 614, 729; 72 Stat. 644)*..... 2,000,000

Operation and maintenance, Indian irrigation systems:

All revenues derived from charges for operation and maintenance of Indian irrigation projects are available for expenditure for operation and maintenance of the projects in accordance with the act of August 7, 1946, Public Law 647 *(60 Stat. 895)*..... 18,000,000

Power systems, Indian irrigation projects:

Revenues collected from the sale of electric power by the Colorado River, Flathead, and San Carlos power systems are used to operate and maintain these systems *(60 Stat. 895; 65 Stat. 254)*..... 28,000,000

TERRITORIAL AND INTERNATIONAL AFFAIRS

Compact of Free Association:

The Compact of Free Association Act of 1985 constituted the necessary authorizing legislation to make annual payments to the Marshall Islands and the Federated States of Micronesia during the next 15 years totaling $2.3 billion. This assistance will aid in their successful development as sovereign States..... 144,179,000

Payments to the United States territories, fiscal assistance:

Excise taxes collected by the Internal Revenue Service are made available to the territories of Guam and the Virgin Islands under sections 1(c) and 4(c)(2) of Public Law 95-348, 92 Stat. 487..... 70,000,000

Total, Department of the Interior..... $1,031,143,000

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

Independent counsel:

Funding is provided for an independent counsel whenever possible violations of Federal law are alleged against senior Executive branch officials *(28 U.S.C. 591 et seq.)*..... 7,000,000

IMMIGRATION AND NATURALIZATION SERVICE

Immigration legalization:

The Immigration Reform and Control Act of 1986, title II, section 201(a), amends section 245(c) of the Immigration and Nationality Act by permitting the Attorney General to provide for a schedule of fees to be charged for filing legalization applications and further allows for the depositing payments received in a separate account with the accounts to be available without fiscal year limitation to cover administrative and other expenses incurred in connection with the review of legalization applications..... 89,786,000

Immigration user fee:

The Immigration user fee account established by Public Laws 99-500 and 99-591 provides for the reimbursement to the Immigration and Naturalization Service's appropriation the amount paid for certain expenses incurred in (a) providing immigration inspection and pre-inspection services for commercial aircraft and vessels, (b) providing overtime immigration inspection services for commercial aircraft and vessels, (c) expansion and operation of information systems for non-immigrant control and debt collection, (d) detection of fraudulent documents, and (e) providing detention and deportation services for excludable aliens arriving on commercial aircraft or vessels $75,057,000

OFFICE OF JUSTICE PROGRAMS

Crime Victims Fund:

This fund will be credited with criminal fines that are collected from persons convicted of offenses against the United States. Annual grants will be made to eligible crime victims compensation and assistance programs *(Public Law 98-473)* 85,000,000

Total, Department of Justice *$256,843,000*

OFFICE OF PERSONNEL MANAGEMENT

Payment to Civil Service Retirement and Disability Fund:

Section 103 of the Civil Service Retirement Amendments of 1969, approved October 20, 1969, established the basis for requiring Federal contributions to the Civil Service Retirement and Disability Fund 12,026,695,000

Total, Office of Personnel Management *$12,026,695,000*

RAILROAD RETIREMENT BOARD

Federal windfall subsidy:

This is a Federal subsidy to the rail industry pension for costs not financed by the railroad sector. The American taxpayer subsidy annually exceeds $1,000 per rail employee 28,000,000

Federal payments to the railroad retirement accounts:

This account funds temporary direct Federal subsidies to the Railroad Pension Fund, and other payments to the Railroad Social Security Equivalent Fund 2,886,300,000

Total, Railroad Retirement Board *$2,914,300,000*

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

Payment to the Foreign Service Retirement and Disability Fund:

The Foreign Service Retirement Amendments of 1976 *(title V, Public Law 94-350)* authorized additional Federal contributions to the Foreign Service Retirement and Disability Fund 159,900,000

OTHER

International Center, Washington, DC:

Property owned by the United States in the northwest section of the District of Columbia bounded by Connecticut Avenue, Van Ness Street, Reno Road, and Tilden Street will be sold or leased to foreign governments for use as embassies. Proceeds will finance the costs of site preparation *(82 Stat. 958)* 410,000

Fishermen's guaranty fund:

This fund provides for payment to vessel owners and crews to compensate for certain financial losses sustained as a result of foreign seizures of American fishing vessels found within 200 miles of their coasts 900,000

Total, Department of State *$161,210,000*

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

Regional rail reorganization program:

The United States Railway Association was authorized by the Regional Rail Reorganization Act, as amended, to borrow funds and make loans to certain railroads $540,000

COAST GUARD

Pollution Fund:

This fund was established under section 11(k) of the Federal Water Pollution Control Act, as amended by Public Law 92-500 to insure immediate cleanup of oil or other hazardous polluting substances spilled into the navigable water of the United States, adjoining shorelines or waters of the contiguous zone..... 5,700,000

MARITIME ADMINISTRATION

Ocean freight differntial:

The Merchant Marine Act, as amended, requires the Maritime Administration to reimburse the Department of Agriculture for ocean freight differential costs associated with shipping agricultural commodities on U.S.-flag vessels rather than on foreign flag carriers 68,921,000

Total, Department of Transportation *$75,161,000*

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

Presidential Election Campaign Fund:

Public Law 93-443 imposes overall limitations on campaign expenditures and contributions and provides for the designation of a principal campaign committee by each candidate for Federal office. The act further provides for public financing of Presidential nominating conventions and Presidential primary elections 40,000,000

FINANCIAL MANAGEMENT SERVICE

Claims, judgments, and relief acts:

Appropriations are made to pay claims and interest for damages not chargeable to appropriations of individual agencies and for the payment of public and private relief acts. Appropriations are made individually for judgments over $100,000, but *31 U.S.C. 724a* authorizes a permanent indefinite appropriation to pay judgments under $100,000 from the general funds of the Treasury 313,020,000

Interest on uninvested funds:

This fund was established to record interest payable from the general fund of the Treasury pursuant to various permanent appropriations in connection with certain trust funds. Under the terms and conditions provided by law creating the trust in each case, interest accruing and payable from the general fund of the Treasury will be appropriated and recorded in this account for transfer to the proper trust fund receipt account *(31 U.S.C. 1321; 2 U.S.C. 158; 20 U.S.C. 74a and 101; 24 U.S.C. 46; various treaties; and 69 Stat. 533)* 17,907,000

The following schedule details the interest obligations under this account:

Bequest of Gertrude M. Hubbard, Library of Congress	*$1,000*
Library of Congress trust fund	*639,000*
National Gallery of Art trust fund	*350,000*
Education of the blind	*10,000*
Soldiers' Home permanent fund	*15,000,000*
Immigration bonds deposit fund	*1,900,000*
Oliver Wendell Holmes devise fund	*7,000*
Total, obligations	*17,907,000*

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Internal revenue collections for Puerto Rico:

Excise taxes collected under the Internal Revenue laws of the United States on articles produced in Puerto Rico and either transported to the United States or consumed on the island are paid to Puerto Rico *(26 U.S.C. 7652)* 205,000,000

U.S. CUSTOMS SERVICE

Salaries and expenses:
This fund is derived from fees collected from persons entering the United States, to be used for overtime payment to Customs personnel $96,100,000

Miscellaneous permanent appropriations:
Customs duties, taxes, and fees collected in Puerto Rico and the Virgin Islands are deposited to this account. After expenses have been provided for, available balances are transferred to the treasurer of Puerto Rico, and the treasury of the municipalities of the Virgin Islands, respectively *(48 U.S.C. 740, 795)*..... 108,000,000

U.S. MINT

Coinage Profit Fund:
A portion of the gains resulting from manufacturing coins is available to cover wastage and recoinage losses incurred in coinage, and the cost of distributing coins..... 17,789,000

INTERNAL REVENUE SERVICE

Payment where earned income credit exceeds liability for tax:
Indefinite appropriation for payment to tax filers in instances wherein the earned income credit exceeds the amount of tax liability owed. The Tax Reduction Act of 1975*(Public Law 94-12)* originally authorized this credit which was made permanent by the Revenue Adjustment Act of 1978 *(Public Law 95-600)*..... 3,897,000,000

Refunding internal revenue collections (interest):
The act of June 19, 1948, appropriated such sums as may be necessary for payment of interest on internal revenue collections *(26 U.S.C. 6611)*..... 1,793,000,000

U.S. SECRET SERVICE

Contribution for annuity benefits:
Reimbursement to the District of Columbia on a monthly basis for benefit payments made from revenues of the District of Columbia to members of the Secret Service Uniformed Division and such members of the U.S. Secret Service as are entitled thereto *(4 D.C. Code 521)*..... 18,000,000

INTEREST ON THE PUBLIC DEBT

Interest on the public debt:
Indefinite appropriation for payment of interest on public debt *(31 U.S.C. 1305 and 3123)* 173,062,000,000

Interest on the public debt paid to trust funds:
Interest earned by the on-budget trust funds is deducted so that the functional total for net interest includes only the Government's net transactions with the public, not payments between Government accounts..... 47,153,141,000

Total, Department of the Treasury..... $226,720,957,000

INDEPENDENT AGENCIES

CORPORATION FOR PUBLIC BROADCASTING

Public Broadcasting Fund:
The Corporation for Public Broadcasting assists in the development and improvement of public telecommunications services and noncommercial television and radio broadcasting through direct support of national interconnection services, payments to radio and television stations for general operational support, and grants to radio and television stations and other entities throughout the country for the production and acquisition of programs for national, regional, and local use. In addition, the Corporation for Public Broadcasting undertakes research and analysis activities, conducts training, and provides technical assistance to improve systemwide capacity and performance, as authorized by the Public Telecommunications Financing Act of 1978.. 228,000,000

DISTRICT OF COLUMBIA

Federal payment to the District of Columbia:
Provided by Public Law 99-500 and Public Law 99-591 for the design and construction of a prison within the District of Columbia..... 20,000,000

FEDERAL EMERGENCY MANAGEMENT AGENCY

National Insurance Development Fund:

The National Insurance Development Fund provides the funding source for two programs authorized by the Urban Property Protection and Reinsurance Act of 1968, as amended: (1) the FAIR (fair access to insurance requirements) plan/Riot Reinsurance Program; and (2) the Federal Crime Insurance Program $16,335,000

FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan Insurance Corporation Fund:

The protection, which insures each saver in a member association against financial loss up to a statutory limit of $100 thousand, may be provided either through the prevention of default or the payment of insurance to savings accounts holders in the event of liquidation 2,000,000,000

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Program expenses:

The Board is responsible for managing the thrift savings fund 15,908,000

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

James Madison Memorial Fellowship Foundation:

The James Madison Memorial Fellowship Foundation was established by Public Law 99-500 and Public Law 99-591 to operate a fellowship program to encourage graduate study of the American Constitution 10,000,000

POSTAL SERVICE

Postal Service Fund:

Section 2005 of title 39, United States Code, authorizes the Postal Service to borrow by issuing obligations which may not exceed $10 billion outstanding at any one time. In any one fiscal year, the net incease in amounts outstanding may not exceed $1.5 billion in obligations issued for the purpose of capital improvements and $500 million for defraying operating expenses 2,236,062,000

TENNESSEE VALLEY AUTHORITY

Tennessee Valley Authority Fund (energy supply):

The Tennessee Valley Authority is the sole supplier of electric power to an area of 80,000 square miles in seven Tennessee Valley States, as provided in the Tennessee Valley Authority Act of 1933, as amended *(16 U.S.C., ch. 12A)* 858,100,000

U. S. TAX COURT

Tax courts independent counsel:

The fund will be used by the Tax Court to employ independent counsel to pursue disciplinary matters involving practitioners admitted to practice before the Court *(26 U.S.C. 7475)* 100,000

Total, Independent agencies *$5,384,505,000*

Grand total, Federal funds 290,810,235,000

II. RECAPITULATION OF PERMANENT APPROPRIATIONS—FEDERAL FUNDS

[Note.—Basically, the amounts shown are taken from the fiscal year 1989 budget and are subject to revision as better data become available.]

Department or establishment	Amounts-fiscal years 1988	1989
Legislative:		
Senate	$10,800,000	$11,676,000
House of Representatives	53,610,000	53,610,000
Library of Congress	71,261,000	71,416,000
Other Legislative Branch Agencies	.....	290,000
Total	135,671,000	136,992,000
Executive:		
Funds Appropriated to the President: International development assistance	22,000,000	22,000,000
Department of Agriculture:		
Cooperative State Research Service	2,600,000	.....
Commodity Credit Corporation	152,130,000	[1]124,925,000
Rural Electrification Administration	1,083,000,000	129,890,000
Farmers Home Administration	6,281,800,000	2,152,402,000
Agricultural Marketing Service	372,071,000	408,590,000
Food and Nutrition Service	3,817,803,000	4,093,272,000
Forest Service	465,438,000	404,035,000
Total	12,174,842,000	7,313,114,000
Department of Commerce: National Oceanic and Atmospheric Administration	56,337,000	56,300,000
Department of Defense — Military:		
Military construction, Army	221,000,000	214,000,000
Family housing	3,000,000	3,000,000
Total	224,000,000	217,000,000
Department of Defense — Civil:		
Corps of Engineers — Civil	9,000,000	9,000,000
Military retirement	10,285,000,000	10,648,000,000
Forest and wildlife conservation, military reservations	4,630,000	4,050,000
Total	10,298,630,000	10,661,050,000
Department of Education: Office of Vocational and Adult Education	7,148,000	7,148,000
Department of Energy:		
Energy programs	1,839,000	526,909,000
Power Marketing Administration	165,024,000	136,000,000
Total	166,863,000	662,909,000

[1] Excludes $15,533,425,000, which was considered in P.L. 100-460, Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989, as "current, indefinite" appropriations.

II. RECAPITULATION OF PERMANENT APPROPRIATIONS—FEDERAL FUNDS—Continued

[Note.—Basically, the amounts shown are taken from the fiscal year 1989 budget and are subject to revision as better data become available.]

Department or establishment	Amounts-fiscal years 1988	1989
General Services Administration:		
Personal property activities	$13,040,000	$15,000,000
Federal property resources activities	3,668,000	3,668,000
Total	16,708,000	18,668,000
Department of Health and Human Services:		
Health Resources and Services Administration	3,000,000	3,000,000
Health Care Financing Administration	7,637,000,000	8,541,000,000
Social Security Administration	8,753,983,000	9,503,165,000
Family Support Administration	3,410,703,000	3,145,000,000
Total	19,804,686,000	21,192,165,000
Department of Housing and Urban Development:		
Housing programs	668,376,000	726,675,000
Public and Indian housing programs	1,436,500,000	955,900,000
Government National Mortgage Association	14,400,000	269,500,000
Total	2,119,276,000	1,952,075,000
Department of the Interior:		
Bureau of Land Management	157,983,000	85,760,000
Minerals Management Service	412,458,000	438,522,000
Bureau of Reclamation	55,967,000	41,114,000
Geological Survey	325,000	325,000
U.S. Fish and Wildlife Service	151,886,000	156,345,000
National Park Service	9,898,000	39,898,000
Bureau of Indian Affairs	55,000,000	55,000,000
Territorial and International Affairs	361,086,000	214,179,000
Total	1,204,603,000	1,031,143,000
Department of Justice:		
Legal Activities		7,000,000
Immigration and Naturalization Service	218,650,000	164,843,000
Office of Justice Programs	85,000,000	85,000,000
Total	303,650,000	256,843,000
Office of Personnel Management	11,058,470,000	12,026,695,000
Railroad Retirement Board	2,725,700,000	2,914,300,000
Small Business Administration	60,000,000	

II. RECAPITULATION OF PERMANENT APPROPRIATIONS—FEDERAL FUNDS—Continued

[Note.—Basically, the amounts shown are taken from the fiscal year 1989 budget and are subject to revision as better data become available.]

Department or establishment	Amounts-fiscal years 1988	1989
Department of State:		
Administration of Foreign Affairs	$167,400,000	$159,900,000
Other	945,000	1,310,000
Total	168,345,000	161,210,000
Department of Transportation:		
Federal Railroad Administration	3,774,000	540,000
Coast Guard	5,300,000	5,700,000
Maritime Administration	60,800,000	68,921,000
Total	69,874,000	75,161,000
Department of the Treasury:		
Departmental Offices	41,000,000	40,000,000
Financial Management Service	345,777,000	330,927,000
Bureau of Alcohol, Tobacco and Firearms	205,000,000	205,000,000
U.S. Customs Service	193,500,000	204,100,000
U.S. Mint	54,157,000	17,789,000
Internal Revenue Service	4,649,000,000	5,690,000,000
U.S. Secret Service	15,000,000	18,000,000
Interest on the public debt	210,057,773,000	220,215,141,000
Total	215,561,207,000	226,720,957,000
Veterans Administration	365,700,000	.....
Independent agencies:		
Corporation for Public Broadcasting	214,000,000	228,000,000
District of Columbia Federal payment	20,000,000	20,000,000
Federal Emergency Management Agency	16,891,000	16,335,000
Federal Home Loan Bank Board	3,986,000,000	2,000,000,000
Federal Retirement Thrift Investment Board	16,618,000	15,908,000
James Madison Memorial Fellowship Foundation	13,200,000	10,000,000
Panama Canal Commission	1,701,000	.....
Postal Service	1,182,120,000	2,236,062,000
Tennessee Valley Authority	1,268,900,000	858,100,000
U.S. Tax Court	280,000	100,000
Total	6,719,710,000	5,384,505,000
Grand total	283,263,420,000	290,810,235,000

III. PERMANENT APPROPRIATIONS—TRUST FUNDS

(For permanent Federal funds, see table II)

COMPILER'S NOTE.—The text and amounts of these permanent appropriations are taken from the budget for the fiscal year 1989. These are funds that do not require annual action by the Congress, but rather become available automatically under earlier laws. The amounts shown are estimated and are thus subject to revision as better data becomes available during the fiscal year.

LEGISLATIVE

LIBRARY OF CONGRESS

Gift Fund:

This fund represents gifts or bequests of money made to the Library of Congress for the immediate disbursement by the Librarian in the interest of the Library, its collections, or its service for the purpose in each case specified *(2 U.S.C. 160; 31 U.S.C. 725s)*..... $1,234,000

Income from investment account:

This fund represents income from investments held by the Treasury for the benefit of the Library of Congress and is subject to disbursement by the Librarian for the purposes in each case specified *(2 U.S.C. 157; 31 U.S.C. 725s)*..... 501,000

Payment of interest on bequest of Gertrude M. Hubbard:

Trust fund of $20,000, the interest on which, at 4 percent per annum, is to be used for the purchase of engravings and etchings to be added to the "Gardiner Greene Hubbard Collection" *(Act of Aug. 20, 1912, 37 Stat. 319, sec. 21)*..... 1,000

Payment of interest on permanent loan:

This appropriation represents a sum equivalent to interest at the rate of 4 percent per annum, payable semiannually, on a permanent loan to the United States, not exceeding $5,000,000, in accordance with provisions of gifts or bequests—such interest, as income, being subject to disbursement by the Librarian of Congress for the purpose specified *(2 U.S.C. 156-158; Act of Mar. 3, 1925, 43 Stat. 1107)*..... 107,000

Service fees:

Operation of a photoduplication laboratory and a sound recording laboratory are financed from fees received for services rendered to other Government agencies and the public *(2 U.S.C. 160; 31 U.S.C. 725s)*..... 5,693,000

OFFICE OF TECHNOLOGY ASSESSMENT

Contributions and donations:

This fund provides for the use of contributions and donations for furtherance of the general purposes of the Technology Assessment Act of 1972, Public Law 92-484 *(2 U.S.C. 475(a)(5))*..... 4,000

Total, Legislative..... *$7,540,000*

THE JUDICIARY

Judicial Survivors' Annuities Fund:

This fund is used to pay annuities to eligible widows and dependent children of deceased judges of the United States, to make refunds to former judges who have elected to come under the judicial survivors annuity system but who have left the service, and to pay claims of survivors of member judges for any unpaid amounts credited to the individual accounts of such judges *(28 U.S.C. 376)*..... 15,735,000

Total, the Judiciary..... *$15,735,000*

EXECUTIVE

FUNDS APPROPRIATED TO THE PRESIDENT

Technical assistance, U.S. dollars advanced from foreign governments:
Funds advanced by foreign countries are used to pay for procurement in the United States of nonmilitary materials or services for programs in those countries in accordance with bilateral agreements *(22 U.S.C. 2315)* $5,000,000

Miscellaneous contributed funds:
Funds received by gift, devise, bequest, or from foreign governments for furtherance of the Peace Corps Program *(22 U.S.C. 2509(a)(3))* 300,000

Advances, foreign military sales:
The trust fund, which is strictly a cash account, is to enable foreign governments to take advantage of savings which result from procurements through U.S. Government channels. Authorized by sections 21 and 22 of the Arms Export Control Act, the fund is used to facilitate cash sales of defense articles and services *(82 Stat. 1323)* 6,848,000,000

Total, Funds Appropriated to the President *$6,853,300,000*

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

Gifts and bequests:
The Secretary is authorized to accept and administer gifts and bequests of real and personal property to facilitate the work of the Department. Property and the proceeds thereof are used in accordance with the terms of the gift or bequest *(7 U.S.C. 2269)* 50,000

AGRICULTURAL RESEARCH SERVICE

Miscellaneous contributed funds:
Funds received from States, local organizations, individuals, and others available for work under cooperative agreements on research activities *(7 U.S.C. 450b, 2220)* 5,000,000

NATIONAL AGRICULTURAL STATISTICS SERVICE

Miscellaneous contributed funds:
Miscellaneous funds received from local organizations, commodity groups, and others are available for dissemination of reports and for crop and livestock survey work under cooperative agreements *(7 U.S.C. 450b, 450h)* 150,000

ECONOMIC RESEARCH SERVICE

Miscellaneous contributed funds:
Funds received from States, local organizations, and others are available for support of economic research and analysis *(7 U.S.C. 450b, 450h)* 200,000

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

Miscellaneous contributed funds:
Miscellaneous funds are received from the Department of State and from Saudi Arabia and other developing countries for USDA development assistance and international research projects *(22 U.S.C. 2392)* 5,188,000

SOIL CONSERVATION SERVICE

Miscellaneous contributed funds:
Miscellaneous funds received from States, local organizations, individuals, and others are available for work under cooperative agreements for soil survey, watershed protection, and resource conservation and development activities *(7 U.S.C. 450b)* 560,000

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Expenses and refunds, inspection, certification, and quarantine of animal products:
Fees are paid in advance for services to be rendered *(7 U.S.C. 1621-1627) (21 U.S.C. 111)* 2,000

Expenses, feed, and attendants for animals in quarantine:
Fees advanced by importers *(21 U.S.C. 102)* 1,893,000

Miscellaneous contributed funds:

Funds received from States, local organizations, individuals, and others available for plant and animal quarantine inspections, and cooperative plant and animal disease and pest control activities *(7 U.S.C. 450b, 2220)* $2,840,000

AGRICULTURAL MARKETING SERVICE

Expenses and refunds, inspection and grading of farm products:

An inspection and grading service of products is provided on request. Thus services are supported primarily by fees paid by users. The schedules reflect expenses paid from fees received *(7 U.S.C. 91–99, 1621–1627)* 85,979,000

FOOD SAFETY AND INSPECTION SERVICE

Expenses and refunds, inspection and grading of farm products:

An inspection and grading service for products is provided on request. These services are supported primarily by fees paid by users. A limited amount of direct appropriation is available which covers a portion of the public benefit service. The schedules reflect expenses paid from fees received *(7 U.S.C. 1621–1627)* 825,000

FOREST SERVICE

Reforestation trust fund:

Amounts from this account are used for reforestation as authorized by section 303 of the act of October 14, 1980 *(16 U.S.C. 1606a (d) and (e))* 30,000,000

Miscellaneous trust funds:

Advances, including deposits from purchasers of timber, are received and used for specified work in forest investigations, protection, and improvements of the national forests; and protection, reforestation, and administration of private lands adjacent to national forests *(7 U.S.C. 2269; 16 U.S.C. 498, 535, 565a, 572, 572a, 576b, 1643; and 31 U.S.C. 1321)* 267,748,000

Total, Department of Agriculture *$400,435,000*

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

Gifts and bequests:

This fund established to account for gifts and bequests in furtherance of programs and activities of the Department of Commerce. Property and the proceeds thereof are used as nearly as possible in accordance with the terms of the gift or bequest *(15 U.S.C. 1522)* 200,000

ECONOMIC AND STATISTICAL ANALYSIS

Information products and services:

This fund is maintained to finance the preparation of transcripts from technical and scientific reports, studies, tables, and other research materials 49,000,000

Total, Department of Commerce *$49,200,000*

DEPARTMENT OF DEFENSE—MILITARY

DEPARTMENT OF THE ARMY

General gift fund:

Included in this fund are gifts and bequests limited to specific purposes by the donor, such as, the Evangeline G. Bovard award, Cormack Medal Fund, Quartermaster Foundation Inc., and Henry C. McLean bequest. In addition, it accounts for gifts and bequests not limited to specific use by the donor which may be used for purposes determined by the Secretary of the Army *(10 U.S.C. 2601)* 110,000

DEPARTMENT OF THE NAVY

General gift fund:

This fund consists mostly of donations from individuals, subject to conditions specified by the donor, for the benefit of the Naval Academy, the Naval Academy Museum, and other institutions of the Navy *(10 U.S.C. 6973; 10 U.S.C. 6974; 10 U.S.C. 2601)* 384,000

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MANAGEMENT AND ADMINISTRATION

Gifts and bequests:

This fund is the repository of gifts and bequests which the Secretary of Housing and Urban Development is authorized to accept and use for the purpose of aiding the work of the Department $5,000

Total, Department of Housing and Urban Development *$5,000*

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

Land and Resource Management Trust Fund:

Applicants for conveyance of lands omitted in original surveys pay the cost of surveys and the administrative costs of conveyance. Advances are made by individuals to pay the costs of other types of surveys requested by them. Users of the Federal range and others contribute funds or make gifts for conservation practices, acquisition, protection, and other purposes *(43 U.S.C. 315, 1719, 1721, and 1737; 31 U.S.C. 1305)* 599,000

Trustee funds, Alaska townsites:

Amounts received from sale of Alaska town lots are available for expenses incident to the maintenance and sale of townsites *(31 U.S.C. 1321; Comp. Gen. Decision of Nov. 18, 1935)* 1,000

BUREAU OF RECLAMATION

Reclamation trust funds:

Funds advanced by State and local governments are used for investigations and construction requested by those governments and by foreign governments for technical services other than those services performed under auspices of Foreign Operations Administration *(43 U.S.C. 395, 396)* 67,101,000

BUREAU OF MINES

Contributed funds:

Funds contributed by States, counties, municipalities and private sources are used to conduct research and investigations to promote (a) the conservation and development of mineral resources and (b) health and safety in the mineral industries 700,000

U.S. FISH AND WILDLIFE SERVICE

Sport fish restoration:

Assistance is provided to States, Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the District of Columbia for up to 75 percent of the cost of approved projects including research into fisheries problems, surveys and inventories of fish populations, and acquisition and improvement of fish habitat and provision of access for public use *(Public Law 98-369)* 194,760,000

Contributed funds:

For miscellaneous contributed funds, received by the Fish and Wildlife Service from States, local organizations, individuals, et cetera, deposited in the Treasury of the United States and made available for work under cooperative agreements *(5 U.S.C. 563, 564; 16 U.S.C. 661)* 4,165,000

NATIONAL PARK SERVICE

Donations:

Hereafter the Secretary of the Interior in the administration of the National Park Service is authorized in his discretion to accept patented lands, rights-of-way over patented lands or other lands, buildings, or other property within the various national parks and national monuments, and moneys which may be donated for the purposes of the National Park and Monument System *(16 U.S.C. 6)* 4,445,000

Office of Naval Records and History Fund:

Gifts or bequests of money and royalties received from sale of histories of U.S. naval operations shall be deposited in the Treasury of the United States under the title "Office of Naval Records and History Funds," and any funds so deposited shall be subject to disbursement by the Secretary of the Navy for the benefit or use of the Office of Naval Records and Library subject to the terms and conditions of the acceptance of any particular gift or bequest. Interest on investments accrues to the fund *(10 U.S.C. 7222)* $58,000

Ships' stores profits:

Profits on certain sales, to be expended for the recreation and amusement of the enlisted force of the Navy *(31 U.S.C. 725s (68); 10 U.S.C. 7604)* 23,000,000

United States Naval Academy general gift fund:

Gifts or bequests of money or the proceeds from sales of other property received as gifts shall be deposited in the Treasury under the title "United States Naval Academy general gift fund" and any funds so deposited shall be subject to disbursement by the Secretary of the Navy for the benefit or use of the United States Naval Academy subject to the terms and conditions of the acceptance of any particular gift or bequest. Interest on investments accrues to the fund *(10 U.S.C. 2601, 6973)* 378,000

United States Naval Academy Museum Fund:

Gifts and bequests of money or the proceeds from sales of other property received as gifts shall be deposited in the Treasury under the title "United States Naval Academy Museum Fund" and the funds so deposited shall be subject to disbursement by the Secretary of the Navy for the benefit of the United States Naval Academy Museum, its collection, or its services. Interest on investments accrues to the fund *(10 U.S.C. 6974)* 190,000

DEPARTMENT OF THE AIR FORCE

General gift fund:

This fund is for gifts or bequests to the Air Force, some of which are limited to use for specific purposes by the donors *(10 U.S.C. 2601)* 80,000

Total, Department of Defense—Military *$24,200,000*

DEPARTMENT OF DEFENSE—CIVIL

CORPS OF ENGINEERS—CIVIL

Funds contributed for river and harbor improvements:

Indefinite appropriations of the amounts received and covered into the Treasury as contributions and advances by local interests in certain localities for river and harbor improvements as provided in various acts of Congress *(33 U.S.C. 560, 561, 701h, 702f, 703)* 241,000,000

MILITARY RETIREMENT

Military Retirement Fund:

The defense authorization bill, Public Law 98-94, provides for accrual funding of the military retirement system, and for the establishment of a Department of Defense Military Retirement Fund 35,059,600,000

EDUCATION BENEFITS

Education Benefits Fund:

Public Law 98-525 provides for the accrual funding of certain new education benefits to be provided to active duty military personnel and to Selected Reserve personnel *(38 U.S.C. 30 and 10 U.S.C. 106)* 255,900,000

SOLDIERS' AND AIRMEN'S HOME

Payment of claims:

Refunds are made from the permanent fund of amounts of courts-martial fines and other charges erroneously deducted from the pay of soldiers and airmen after adjudication of claims therefor by the General Accounting Office *(31 U.S.C. 71, 711(12); 24 U.S.C. 44)* 5,000

Total, Department of Defense—Civil *$35,556,505,000*

DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Promotion of education for the blind:
A $250,000 trust fund was established in 1879 for the American Printing House for the Blind. The statute provides that the fund will produce annually $10,000 in interest income $10,000

Total, Department of Education *$10,000*

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

Advances for cooperative work:
Advances contributed by domestic and foreign sources fund research and development activities involving energy programs such as reactor safety, nuclear waste processing, magnetic fusion, fossil energy, and other basic energy sciences 144,867,000

Total, Department of Energy *$144,867,000*

ENVIRONMENTAL PROTECTION AGENCY

Miscellaneous contributed funds:
Includes gifts for pollution control programs which are, for the most part, designated for a specific use by the donor, and deposits from pesticide registrants to cover the costs of petition hearings when such hearings result in unfavorable decisions to the petitioner 10,000

Total, Environmental Protection Agency *$10,000*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

Miscellaneous trust funds:
Gifts to the Public Health Service, some of which are limited to specific uses by the donors, are used in accordance with the conditions prescribed *(42 U.S.C. 219, 24 U.S.C. 165, 24 U.S.C. 2001–2004)* 8,124,000

HEALTH CARE FINANCING ADMINISTRATION

Federal Hospital Insurance Trust Fund:
Public Law 89–97 provides social insurance under the Social Security system for inpatient and outpatient hospital care, posthospital extended care, and outpatient hospital extended care, and home health services to over 20 million aged Americans financed by a joint employee-employer tax 72,794,000,000

Federal Supplementary Medical Insurance Trust Fund:
The Social Security Act provides for a voluntary supplemental medical benefits program. Benefit payments are made to those electing coverage to cover the cost of physicians' services, home health services, and other related medical services. Costs of benefit payments and administrative expenses are financed by premium payments together with matching contributions from the general revenues of the Treasury *(revised 4/68)* 42,855,000,000

SOCIAL SECURITY ADMINISTRATION

Federal Old-Age and Survivors Insurance Trust Fund:
The old-age and survivors insurance program provides income to retired workers, their dependents, and survivors. This program is financed by payroll taxes paid by employers, employees, and self-employed individuals *(42 U.S.C. 401)* 255,550,434,000

Federal Disability Insurance Trust Fund:
The disability insurance program provides income to insured disabled workers (and their dependents). This program is financed by payroll taxes paid by workers, employers, and self-employed individuals *(70 Stat. 821)* 24,132,000,000

Total, Department of Health and Human Services *$395,339,558,000*

Preservation, birthplace of Abraham Lincoln:
Interest from an endowment fund, title to which was transferred to the United States by the Lincoln Farm Association on April 11, 1916, in connection with deed of gift conveying the homestead of Abraham Lincoln and the log cabin in which he was born. This fund has been converted into the city of Louisville, KY, bonds amounting to $44,000 and United States Treasury bonds amounting to $16,500, the income from which is available for expenses incident to the preservation of the birthplace of Lincoln *(16 U.S.C. 211-212)*..... $8,000

BUREAU OF INDIAN AFFAIRS

Cooperative Fund (Papago):
The Cooperative Fund, established by section 313 of the Southern Arizona Water Rights Settlement Act (96 Stat. 1274-1285), provides a source of funds for the Secretary of the Interior to carry out the obligations of the Secretary under sections 303, 304, and 305 of the act. Only interest accruing to the fund may be expended. However, the law provides that no such interest can be spent prior to the earlier of 1992 or the completion of the main project works of the central Arizona project..... 1,269,000

Miscellaneous trust funds:
Funds held in trust for Indian tribes under the provisions of various acts are used for the expenses of tribal governments, administration of Indian tribal affairs, employment of tribal attorneys, establishment and operation of tribal enterprises, investments, and the welfare of Indians. The tribes are encouraged to develop plans for the beneficial use of their funds *(44 Stat. 560; 25 U.S.C., Sec. 155; 82 Stat. 171)*..... 338,367,000

Total, Department of the Interior..... *$611,415,000*

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

Gifts and bequests, National Commission for Employment Policy:
Miscellaneous funds from gifts and bequests are used to carry out the provisions of the National Commission for Employment Policy *(29 U.S.C. 954)*..... 10,000

Unemployment Trust Fund:
The financial transactions of the Federal-State and railroad unemployment insurance systems are made through the Unemployment Trust Fund. In the Federal-State system, benefit payments are made by each State, financed by State payroll taxes. These tax receipts are deposited in the Unemployment Trust Fund and invested in Government securities until needed for benefit payments. The expenses of State and Federal administration (including those of the Federal-State employment service), are paid from the fund out of revenue from the Federal unemployment tax.

Both the benefit payments and administrative expenses of the separate Unemployment Insurance Program for railroad employees are paid from the Unemployment Trust Fund and receipts from the tax on wages of railroad employees are deposited in the fund to meet expenses *(42 U.S.C. 1104)*..... 26,100,000,000

EMPLOYMENT STANDARDS ADMINISTRATION

Special workers' compensation expenses; Longshore and Harbor Worker's Compensation Act:
Trust fund created by section 44 of the act of March 4, 1927 *(33 U.S.C. 944)*, from the amount received as compensation for death of an employee where no person is entitled to compensation for such death and from fines and penalties collected; to be used for the payment of additional compensation under the provisions of subdivisions (f) and (g) of section 8 of the act of March 4, 1927 *(33 U.S.C. 908; 31 U.S.C. 725; 33 U.S.C. 944)*..... 87,000,000

Total, Department of Labor..... *$26,187,010,000*

OFFICE OF PERSONNEL MANAGEMENT

Civil Service Retirement and Disability Fund:

The act of May 22, 1920 *(41 Stat. 614)* as amended, authorized the establishment of the Civil Service Retirement and Disability Fund and the deposit therein of deductions from the salaries of, and deposits for additional annuity by, employees and other members of the Civil Service Retirement and Disability Fund and appropriated said fund for the payment of annuities, refunds, and allowances to such members. Included in this fund is the basic benefit element of the new Federal Employees' Retirement System (FERS), Public Law 99-335, covering all employees hired after December 31, 1983. Said fund is supplemented by contributions from the various Government agencies as required by the act of July 31, 1956 *(5 U.S.C., ch. 14, Stat. 622, act of July 31, 1956)* $48,004,756,000

Total, Office of Personnel Management *$48,004,756,000*

RAILROAD RETIREMENT BOARD

Rail Industry Pension Fund:

Fund revenues are derived from pension contributions by railroad employers and employees; interest on investments; various temporary subsidies; and payments from the Federal old-age, survivors and disability insurance trust funds 2,683,137,000

Supplemental Annuity Pension Fund:

The Board pays supplemental annuities to rail workers retiring at age 60 with 30 years of creditable rail service or at age 65 with 25-29 years of creditable service 117,686,000

Railroad Social Security equivalent benefit account:

All railroad retirees receive the equivalent of a Social Security benefit, and they may also receive rail industry pension payments and special windfall payments. Social Security benefits for former railroad employees are funded by the Social Security trust funds, and rail industry pension payments are the responsibility of the rail sector. To ensure and protect the integrity of Social Security benefits to railroad retirees, the Railroad Retirement Solvency Act of 1983 mandated that beginning in 1985, the financing and payment of Federal Social Security benefits be separated from the Rail Industry Pension Trust Fund 6,876,915,000

Total, Railroad Retirement Board *$9,677,738,000*

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

Foreign Service Retirement and Disability Fund:

This fund is used primarily for the payment of annuities to retired Foreign Service officers. It is also used for the refund of contributions made to certain officers who leave the Foreign Service before retirement. The fund is maintained through (1) contribution of 7 percent of the basic annual salaries of all Foreign Service officers; (2) interest on investments; and (3) Government contributions *(22 U.S.C. 4042)* 785,442,000

Unconditional Gift Fund:

Unconditional gifts may be used to carry out the Department's functions *(22 U.S.C. 809)* 400,000

Conditional Gift Fund:

This fund consists of procurement of furnishing, paintings, and decorative objects for the Department's diplomatic reception rooms and funds donated by overseas commissary and mess services to assist such services at other posts *(22 U.S.C. 809)* 2,800,000

Total, Department of State *$788,642,000*

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

HIGHWAY TRUST FUND

The Highway Revenue Act of 1956, as amended, provides for the transfer from the general fund to the Highway Trust Fund of revenue from the gasoline tax and certain other taxes paid by highway users. The Secretary of the Treasury estimates the amounts to be so transferred. In turn, annual appropriations are authorized from this fund to meet expenditures for Federal-aid highways and other programs specified by law as follows:

Federal-aid highways:

Grants are made available to States for construction and improvements on the National System of Interstate and Defense Highways and for urban and rural transportation programs. To constrain the proliferation of programs exempt from routine funding controls, a Federal-aid highways obligation limitation of $11.398 billion covering all Federal-aid programs except emergency relief and minimum allocation is proposed $13,701,929,000

Highway-related safety grants:

Grants are made to States and communities for implementing and maintaining highway-related safety standards 10,000,000

Motor carrier safety grants:

Grants are made to States to enforce Federal and compatible State standards applicable to commercial motor vehicle safety. States become eligible for funds by adopting Federal truck safety standards and maintaining minimum levels of program funding. The purpose of the grant program is to raise the level of enforcement, not to substitute Federal for State and local dollars 60,000,000

MISCELLANEOUS TRUST FUNDS

Contributions for highway research programs:

In association with the General Services Administration and the Department of Defense, tests of highway equipment are conducted for the purpose of establishing performance standards upon which to base specifications for use by the Government in purchasing such equipment 15,000

Cooperative work, forest highways:

Contributions are received from States and counties in connection with cooperative engineering, survey, maintenance, and construction projects for forest highways *(23 U.S.C. 204)* 390,000

Technical assistance, U.S. dollars advanced from foreign governments:

Under the Foreign Economic Assistance Act and under agreement with the International Bank for Reconstruction and Development and the Export-Import Bank of Washington, the Federal Highway Administration renders technical assistance and acts as agent for the purchase of equipment and materials for carrying out highway programs in foreign countries. During the current year these services are being rendered to Costa Rica and Kuwait *(64 Stat. 204, 209)* 2,960,000

Advances from State cooperating agencies:

Funds are contributed by the State highway department or local subdivisions thereof for construction and/or maintenance of roads or bridges. The work is performed under the supervision of the Federal Highway Administration 330,000

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Highway traffic safety grants:

Grant allocations are determined on the basis of a statutory formula to States which have the greatest potential for achieving safety improvements and reducing traffic crashes and fatalities 126,000,000

URBAN MASS TRANSPORTATION ADMINISTRATION

Discretionary grants:
The funding has provided financial assistance for planning and capital investments in mass transportation. The Discretionary Grants program has been used to fund selected bus projects, rail modernization projects, and new subway and light rail systems $1,250,000,000

FEDERAL AVIATION ADMINISTRATION

Grants-in-aid for airports:
The Airport and Airway Safety and Capacity Expansion Act of 1987 provides for airport improvement grants which emphasize capacity development, safety, and security needs 1,700,000,000

Trust fund share of FAA operations:
The Airport and Airway Improvement Act of 1982 authorizes use of the Airport and Airway Trust Fund as the source of financing a portion of FAA's operating costs 750,000

COAST GUARD

Coast Guard General Gift Fund:
This trust fund, maintained from gifts and bequests, is used for purposes as specified by the donor in connection with the Coast Guard Training Program *(10 U.S.C. 2601)* 80,000

MARITIME ADMINISTRATION

Special studies, services, and projects:
The trust fund was established pursuant to 15 U.S.C. 1525–1526 to finance joint projects with non-Federal sources on inland waterways communications systems, and the joint development of a bilateral cargo information system 100,000

Gifts and bequests:
The Secretary of Transportation is authorized to accept, hold, administer, and utilize gifts and bequests of property. Proceeds are used in accordance with the terms of the gift or bequest 15,000

Total, Department of Transportation *$16,852,569,000*

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

Gifts and bequests:
The Secretary of the Treasury is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department 150,000

FINANCIAL MANAGEMENT SERVICE

Esther Cattell Schmitt Fund:
Public Law 87–467 *(76 Stat. 88)* authorized the acceptance of the gift made to the United States by the will of Esther Cattell Schmitt. The income received from the gift to the United States is paid by the Secretary of the Treasury to beneficiaries named in provisions of the will 16,000

National defense conditional gift fund:
Gifts of money or other intangible property are used for a particular defense purpose. The moneys held in trust are paid to those appropriation accounts which best implement the intent of the donors *(68 Stat. 566)* 48,000

Pershing Hall Memorial Fund:
The Secretary of the Treasury may invest the Pershing Hall Memorial Fund in interest bearing U.S. bonds. Earnings are paid to the American Legion for use in the maintenance of Pershing Hall in Paris, France *(36 U.S.C. 491)* 14,000

U.S. CUSTOMS SERVICE

Refunds, transfers and expenses, unclaimed, abandoned, and seized goods:
All proceeds of the sale of abandoned and seized merchandise are deposited to this account. Expenses of sale are paid and net proceeds transferred to miscellaneous receipts *(19 U.S.C. 528, 1491, 1493, 1559, 1613, 1624)* 17,230,000

Total, Department of the Treasury *$17,458,000*

VETERANS ADMINISTRATION

Post-Vietnam era veterans education account:

This account is a depository for that portion of the contributory matching Educational Program which provides educational assistance payments to participants who entered the service after December 31, 1976, and are pursuing training *(38 U.S.C. 32)* $167,255,000

General Post Fund, national homes:

This fund consists of gifts, and bequests and proceeds of property left in the care of the homes by former members; unpaid pension money standing to the credit of members of the homes who die without pensionable heirs, and proceeds from effects of members of the homes who die leaving no heirs or next of kin and without having disposed of their estate by will. Such funds are available upon authorization of the Administrator of Veterans Affairs for the construction of chapels, amusement halls, and for other objects to promote the comfort and welfare of the veterans at the various hospitals and homes in cases where no general appropriation is available *(38 U.S.C. 83, 85)* 22,500,000

National Service Life Insurance Trust Fund:

This fund was established in 1940 as the financing mechanism for World War II Servicemen's and Veterans Insurance Program authorized by the National Service Life Insurance Act of 1940. Over 22 million policies have been issued under this program. Because issuance of new policies ended in 1951 the insurance in force will continue to decline.

The income of the fund is derived from premium receipts, interest on investments, and payments which are made to the fund from the veterans insurance and indemnities appropriation for claims (1) resulting from extra hazards of the veterans' service, and (2) arising on certain policies held by personnel on active duty *(72 Stat. 1154)* 1,425,500,000

U.S. Government Life Insurance Fund:

This fund was established in 1919 to receive premiums and pay claims on insurance issued under the provisions of the War Risk Insurance Act.

The income of the fund is derived from premium receipts, interest on investments, and payments which are made to the fund from the appropriation veterans insurance and indemnities for claims (a) resulting from the extra hazards of the veterans' service, and (b) arising on certain policies held by personnel on active military duty *(72 Stat. 1161)* 14,070,000

Total, Veterans Administration *$1,629,325,000*

INDEPENDENT AGENCIES

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Contributions:

State and local governments and nonprofit organizations contribute funds to strengthen the Commission's clearinghouse and information services to State and local governments, for special studies, and to encourage widespread consideration of the Commission's recommendations for improving intergovernmental relations 155,000

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Donations:

The chairman of the Advisory Council on Historic Preservation accepts and uses donated moneys for purposes of the Council *(16 U.S.C. 470)* 5,000

AMERICAN BATTLE MONUMENTS COMMISSION

Contributions:

Through the collection of private contributions, this fund provides for the purchase of flowers, the repair of non-Federal war memorials, and the construction of a Korean War memorial 2,249,000

APPALACHIAN REGIONAL COMMISSION

Miscellaneous trust funds:

The thirteen Appalachian States share with the Federal Government the administrative expenses of the Appalachian Regional Commission. These expenses will be funded from Federal funds made available for the closeout of the Appalachian Regional Development Programs 1,247,000

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

Barry Goldwater Scholarship and Excellence in Education Fund:
Public Law 99-661 established the Foundation to operate the scholarship program that is the permanent Federal tribute to the former Senator from Arizona. Scholarships and honoraria are awarded to encourage excellence in science and mathematics $2,983,000

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

Gifts and donations:
Funds collected are used in furtherance of activities associated with the Commission 30,000

FEDERAL DEPOSIT INSURANCE CORPORATION

Federal Deposit Insurance Corporation:
The Corporation was created by the Banking Act of 1933 to provide protection for bank depositors and to foster sound banking practices. The insurance fund is supported by an authorization to borrow up to $3 billion 27,000,000

FEDERAL EMERGENCY MANAGEMENT AGENCY

Bequests and gifts:
This fund represents contributions from the estate of Cora Brown to support the activities of the disaster relief fund 60,000

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

Harry S Truman Memorial Scholarship Trust Fund:
The Foundation is authorized to award college scholarships annually for 4 years to qualified persons who demonstrate outstanding potential and who are preparing to pursue careers in public service at the local, State, or Federal levels. The Foundation reserves the right to adjust award levels or the number of scholars 4,416,000

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

Endowment Fund
Gifts, bequests, and contributions are available for investment outside the Treasury. Earnings on investments may be used to defray operating expenses, or may be reinvested 500,000

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

James Madison Memorial Fellowship Trust Fund:
Public Laws 99-500 and 99-591 established the Foundation to operate a fellowship program to encourage graduate study of the American Constitution. The Foundation is authorized to award fellowships of up to $12,000 to individuals selected for their academic achievement and their potential to become secondary school teachers of social studies and American history 22,146,000

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

National Archives Gift Fund:
Proceeds from sale of copies of microfilm publications, reproductions, and other publications, and admission fees to Presidential Library museum rooms are deposited to this fund *(44 U.S.C. 2305)* 256,000

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Gifts and donations (arts):
The National Foundation on the Arts and the Humanities Act of 1965, as amended, authorizes the Arts Endowment to receive money and other donated property. Such gifts may be used, sold, or otherwise disposed of to support arts projects and activities 30,000

Gifts and donations (humanities):
The National Foundation on the Arts and the Humanities Act of 1965, as amended, authorizes the Humanities Endowment to receive money and other donated property. Such gifts may be used, sold, or otherwise disposed of to support humanities projects and activities 580,000

NATIONAL INSTITUTE OF BUILDING SCIENCES

National Institute of Building Sciences Trust Fund:
The purpose of the Institute is to support the development and maintenance of nationally recognized building performance criteria for maintenance of life, safety, health, and public welfare $500,000

NATIONAL SCIENCE FOUNDATION

Donations:
Donations are used in furtherance of general purposes of the Foundation 16,000,000

SMITHSONIAN INSTITUTION

Canal Zone Biological Area Fund:
The act of July 1, 1940, section 6, provides that all moneys received by donation, subscription, fees, or otherwise, except the moneys appropriated pursuant to section 7 of said act, shall be deposited into the Treasury as a trust fund to be appropriated and used to defray part of the expenses of maintaining and operating the Canal Zone biological area *(60 Stat. 1101; 20 U.S.C. 79, 79a)* 150,000

Endowment Challenge Fund:
Interest income from the Endowment Challenge Fund is utilized for educational and administrative activities of the Woodrow Wilson International Center for Scholars 60,000

U.S. HOLOCAUST MEMORIAL COUNCIL

Gifts and donations:
The Council may solicit and accept donations to aid or facilitate the construction, maintenance, and operation of the memorial 50,000

U.S. INFORMATION AGENCY

Miscellaneous trust funds:
Funds advanced by other governments, business concerns, and private organizations are used to send experts abroad to perform requested services; to give foreign nationals scientific, technical, or other training; to purchase films and other products owned or controlled by the USIA; to replace damaged or destroyed USIA property; and for international exhibitions *(22 U.S.C. 1431-1479; 70 Stat. 778)*. Funds contributed by private individuals and concerns, foreign governments, and international organizations are used for the purposes of the Mutual Educational and Cultural Exchange Act of 1961 and for carrying out other functions of the Agency *(22 U.S.C. 809a and 2697)* 1,460,000

U.S. TAX COURT

Tax Court Judges Survivors Annuity Fund:
This fund is used to pay annuities to eligible widows and dependent children of deceased judges of the Tax Court of the United States. Participating judges pay into the fund 3.5 percent of their salaries or retired pay to cover creditable service for which payment is required and additional funds needed are transferred to the fund by the Tax Court from appropriations *(26 U.S.C. 7448)*. 428,000

Total, Independent agencies *$80,305,000*
Grand total, trust funds *542,240,583,000*

III. RECAPITULATION OF PERMANENT APPROPRIATIONS—TRUST FUNDS

[Note.—Basically, the amounts shown are taken from the fiscal year 1989 budget and are subject to revision as better data become available.]

Department or establishment	Amounts-fiscal years 1988	1989
Legislative:		
Library of Congress	$6,625,000	$7,536,000
Office of Technology Assessment	3,000	4,000
Total	6,628,000	7,540,000
The Judiciary	14,863,000	15,735,000
Executive:		
Funds Appropriated to the President	7,631,300,000	6,853,300,000
Department of Agriculture:		
Office of the Secretary	50,000	50,000
Agricultural Research Service	5,000,000	5,000,000
National Agricultural Statistics Service	150,000	150,000
Economic Research Service	200,000	200,000
Office of International Cooperation and Development	5,188,000	5,188,000
Soil Conservation Service	560,000	560,000
Animal and Plant Health Inspection Service	4,735,000	4,735,000
Agricultural Marketing Service	85,979,000	85,979,000
Food Safety and Inspection Service	825,000	825,000
Forest Service	280,369,000	297,748,000
Total	383,056,000	400,435,000
Department of Commerce:		
General Administration	200,000	200,000
Economic and Statistical Analysis	43,000,000	49,000,000
Total	43,200,000	49,200,000
Department of Defense — Military:		
Department of the Army	120,000	110,000
Department of the Navy	23,890,000	24,010,000
Department of the Air Force	90,000	80,000
Total	24,100,000	24,200,000
Department of Defense — Civil:		
Corps of Engineers — Civil	233,000,000	241,000,000
Military retirement	33,562,632,000	35,059,600,000
Education Benefits	271,100,000	255,900,000
Soldiers' and Airmen's Home	5,000	5,000
Total	34,066,737,000	35,556,505,000
Department of Education: Office of Special Education and Rehabilitation Services	10,000	10,000

III. RECAPITULATION OF PERMANENT APPROPRIATIONS—TRUST FUNDS—Continued

[Note.—Basically, the amounts shown are taken from the fiscal year 1989 budget and are subject to revision as better data become available.]

Department or establishment	Amounts-fiscal years 1988	1989
Department of Energy: Energy programs	$138,200,000	$144,867,000
Environmental Protection Agency	10,000	10,000
Department of Health and Human Services:		
Office of Assistant Secretary for Health	8,124,000	8,124,000
Health Care Financing Administration	102,728,500,000	115,649,000,000
Social Security Administration	257,309,587,000	279,682,434,000
Total	360,046,211,000	395,339,558,000
Department of Housing and Urban Development: Management and Administration	5,000	5,000
Department of the Interior:		
Bureau of Land Management	600,000	600,000
Bureau of Reclamation	51,800,000	67,101,000
Geological Survey	300,000	.....
Bureau of Mines	700,000	700,000
U.S. Fish and Wildlife Service	165,238,000	198,925,000
National Park Service	14,852,000	4,453,000
Bureau of Indian Affairs	335,382,000	339,636,000
Total	568,872,000	611,415,000
Department of Labor:		
Employment and Training Administration	26,200,010,000	26,100,010,000
Employment Standards Administration	80,000,000	87,000,000
Total	26,280,010,000	26,187,010,000
Office of Personnel Management	45,821,997,000	48,004,756,000
Railroad Retirement Board	9,814,609,000	9,677,738,000
Department of State: Administration of Foreign Affairs	729,345,000	788,642,000
Department of Transportation:		
Federal Highway Administration	13,767,675,000	13,775,624,000
National Highway Traffic Safety Administration	126,000,000	126,000,000
Urban Mass Transportation Administration	1,200,000,000	1,250,000,000
Federal Aviation Administration	.....	1,700,750,000
Coast Guard	80,000	80,000
Maritime Administration	115,000	115,000
Total	15,093,870,000	16,852,569,000

III. RECAPITULATION OF PERMANENT APPROPRIATIONS—TRUST FUNDS—Continued

[Note.—Basically, the amounts shown are taken from the fiscal year 1989 budget and are subject to revision as better data become available.]

Department or establishment	Amounts-fiscal years 1988	1989
Department of the Treasury:		
Departmental Offices	$150,000	$150,000
Financial Management Service	80,000	78,000
U.S. Customs Service	17,061,000	17,230,000
Total	17,291,000	17,458,000
Veterans Administration	1,700,480,000	1,629,325,000
Independent agencies:		
Advisory Commission on Intergovernmental Relations	130,000	155,000
Advisory Council on Historic Preservation	5,000	5,000
American Battle Monuments Commission	80,000	2,249,000
Appalachian Regional Commission	3,700,000	1,247,000
Barry Goldwater Scholarship and Excellence in Education Foundation	2,257,000	2,983,000
Commission on the Bicentennial of the United States Constitution	30,000	30,000
Federal Deposit Insurance Corporation	903,000,000	27,000,000
Federal Emergency Management Agency	63,000	60,000
Harry S Truman Scholarship Foundation	4,431,000	4,416,000
Institute of American Indian and Alaska Native Culture and Arts Development	.....	500,000
Institute of Museum Services	51,000	.....
James Madison Memorial Fellowship Foundation	10,759,000	22,146,000
National Archives and Records Administration	475,000	256,000
National Commission on Libraries and Information Science	16,000	.....
National Foundation on the Arts and the Humanities	107,000	610,000
National Institute of Building Sciences	500,000	500,000
National Science Foundation	16,000,000	16,000,000
Other Temporary Commissions	60,000	.....
Smithsonian Institution	200,000	210,000
U.S. Holocaust Memorial Council	40,000	50,000
U.S. Information Agency	1,750,000	1,460,000
U.S. Institute of Peace	230,000	.....
U.S. Tax Court	412,000	428,000
White House Conference for Drug Free America	300,000	.....
Total	944,596,000	80,305,000
Grand total	503,325,390,000	542,240,583,000

IV. RECAPITULATION OF APPROPRIATIONS BY ACTS, IRRESPECTIVE OF FISCAL YEARS, 100TH CONG., 2D SESS.

[NOTE.—Concept of "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Cong., 2d sess. (see explanation, par. 7, "Compilers' Notes," p. III).]

Title of appropriation act		Amount
REGULAR ANNUAL APPROPRIATION ACTS		
Departments of Commerce, Justice, and State, the Judiciary, and related agencies (pp. 17–58):		
Department of Commerce *($28,717,000 current trust funds)*	$2,699,162,000	
Department of Justice	5,389,469,000	
Department of State	2,732,341,000	
The Judiciary	1,398,973,000	
Related agencies *($1,415,000 current trust funds)*	2,629,447,000	
Total		$14,849,392,000
Department of Defense (pp. 59–115):		
Military personnel	78,489,954,000	
Operation and maintenance	85,293,742,000	
Procurement	79,323,842,000	
Research, development, test, and evaluation	37,663,867,000	
Revolving and management funds	688,500,000	
Chemical agents and munitions destruction, Defense	179,500,000	
Related agencies	664,145,000	
General provisions	108,800,000	
Total		282,412,350,000
District of Columbia (pp. 117–134):		
Federal funds to the District of Columbia	536,910,000	
(District of Columbia funds, FY 1989 - net)	*(3,206,095,000)*	
(District of Columbia funds, FY 1988 supplemental - net)	*(135,877,000)*	
Total		536,910,000
Energy and water development (pp.135–153):		
Department of Defense—Civil	3,236,261,000	
Department of the Interior	993,621,000	
Department of Energy	11,880,112,000	
Independent agencies	446,001,000	
Total		16,555,995,000
Foreign operations, export financing, and related programs (pp. 155–206):		
Multilateral Economic Assistance	1,540,744,730	
Bilateral Economic Assistance	6,270,948,270	
Military Assistance	5,758,339,000	
Export Assistance	720,000,000	
Total		14,290,032,000
Department of Housing and Urban Development—Independent agencies (pp. 207–231):		
Department of Housing and Urban Development	13,124,554,000	
Rescissions	−353,500,000	

IV. RECAPITULATION OF APPROPRIATIONS BY ACTS, IRRESPECTIVE OF FISCAL YEARS, 100TH CONG., 2D SESS.—Continued

[NOTE.—Concept of "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Cong., 2d sess. (see explanation, par. 7, "Compilers' Notes," p. III).]

Title of appropriation act		Amount
REGULAR ANNUAL APPROPRIATION ACTS—Continued		
Department of Housing and Urban Development—Independent agencies (pp. 207-231)—Continued:		
Independent agencies:		
American Battle Monuments Commission	$15,085,000	
Consumer Product Safety Commission	34,500,000	
Cemeterial Expenses, Army	13,195,000	
Environmental Protection Agency *($1,475,000,000 current trust funds)*	5,155,125,000	
Council on Environmental Quality and Office of Environmental Quality	850,000	
Office of Science and Technology Policy	1,587,000	
Federal Emergency Management Agency	633,712,000	
Consumer Information Center	1,354,000	
Office of Consumer Affairs	1,708,000	
National Aeronautics and Space Administration	10,701,000,000	
Rescission	−25,000,000	
National Science Foundation	1,885,000,000	
Neighborhood Reinvestment Corporation	19,494,000	
Selective Service System	26,313,000	
Veterans Administration	28,151,068,000	
Total *(net)*		$59,386,045,000
Department of the Interior and related agencies (pp. 233-284):		
Department of the Interior *($100,000 current trust funds)*	4,607,623,000	
Rescission	−30,000,000	
Related agencies:		
Forest Service *($90,000 current trust funds)*	1,885,011,000	
Rescission	−40,000,000	
Department of Energy	2,635,526,000	
Indian Health Service	1,081,774,000	
Indian education	71,553,000	
Other related agencies	682,029,000	
Total *(net)*		10,893,516,000
Departments of Labor, Health and Human Services, and Education, and related agencies (pp. 285-321):		
Department of Labor *($691,513,000 current trust funds)*	6,462,681,000	
Department of Health and Human Services	111,147,857,000	
Department of Education	21,724,362,000	
Related agencies *($52,068,000 current trust funds)*	1,039,229,000	
Total		140,374,129,000
Legislative branch (pp. 323-348):		
Congressional Operations	1,231,850,200	
Other agencies	572,774,000	
Total		1,804,624,200
Military construction (pp. 349-356)	8,816,548,000	
Rescission	−19,548,000	
Total *(net)*		8,797,000,000
Rural development, agriculture, and related agencies (pp. 357-393):		
Agricultural programs	11,531,383,000	
Rural development programs	12,437,106,000	
Domestic food programs	16,603,385,000	
International programs	1,199,836,000	
Related agencies	741,129,000	
Total		42,512,839,000

IV. RECAPITULATION OF APPROPRIATIONS BY ACTS, IRRESPECTIVE OF FISCAL YEARS, 100TH CONG., 2D SESS.—Continued

[NOTE.—Concept of "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Cong., 2d sess. (see explanation, par. 7, "Compilers' Notes," p. III).]

Title of appropriation act		Amount
REGULAR ANNUAL APPROPRIATION ACTS—Continued		
Department of Transportation and related agencies (pp. 395–426):		
Department of Transportation *($3,098,919,000 current trust funds)*	$10,785,833,000	
Rescission	−100,000,000	
Related agencies *($10,700,000 current trust funds)*	132,729,569	
General provisions	−21,796,000	
Rescission	−3,000,000	
Total *(net)*		$10,793,766,569
Treasury, Postal Service, and general government (pp. 427–465):		
Department of the Treasury	7,646,543,000	
United States Postal Service	436,417,000	
Executive Office of the President	108,310,000	
Independent agencies	7,828,640,000	
Total		16,019,910,000
Total, regular annual appropriation acts *(net)*		619,226,508,769
SUPPLEMENTAL APPROPRIATION ACTS		
Assistance to Central America, transfer of funds, 1988 (P.L. 100–276) (pp. 1–4)	*(47,900,000)*	
Emergency Mandatory Veterans Supplemental, 1988 (P.L. 100–304) (p. 5)	709,100,000	
An Act to Extend the Life of the Commission on the Ukraine Famine, 1988 (P.L. 100–340) (p. 7)		
Dire Emergency Supplemental Appropriations Act, 1988 (P.L.100–393) (pp. 9–15)	613,209,000	
Rescission	−12,000,000	
Urgent Supplemental Appropriations Act of 1989 to Meet the Dire Emergency Created by the Crisis of Drug Abuse (P.L. 100–690) (pp. 467–472)	991,400,000	
Total, supplemental appropriation acts *(net)*		2,301,709,000
RESCISSION ACT		
Budget Rescission Act, 1988 (P.L. 100–251) (p. 475)		−8,000,000
MISCELLANEOUS LAWS CARRYING APPROPRIATIONS		
Legislative acts (pp. 491–2217)	[1] 1,980,000,000	
Federal funds	(492,000,000)	
Trust funds	(1,488,000,000)	
Private appropriation acts (p. 2219)	1,000,420	
Total appropriations in miscellaneous laws		1,981,000,420
Grand total, regular annual, supplemental and other acts *(net)*		623,501,218,189
Consisting of—		
New budget *(obligational)* authority	(624,092,266,189)	
Rescissions of unobligated balanaces	(−591,048,000)	
PERMANENT FEDERAL FUNDS AND TRUST FUNDS		
Federal funds:		
Interest on public debt (p. 2233)	220,215,141,000	
Other (pp. 2221–2234)	70,595,094,000	
Total, Federal funds	290,810,235,000	
Trust funds:		
Social Security Administration (p. 2243)	279,682,434,000	
Other (pp. 2239–2251)	262,558,149,000	
Total, Trust funds	542,240,583,000	
Total, permanent Federal funds and Trust funds		833,050,818,000

See footnotes at end of table p. 2258.

IV. RECAPITULATION OF APPROPRIATIONS BY ACTS, IRRESPECTIVE OF FISCAL YEARS, 100TH CONG., 2D SESS.—Continued

[NOTE.—Concept of "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Cong., 2d sess. (see explanation, par. 7, "Compilers' Notes," p. III).]

Title of appropriation act		Amount
Grand total, all funds *(net)*		$1,456,552,036,189
Fiscal year 1988 *(net)*	$1,302,810,269	
Fiscal year 1989 *(net)*	1,439,101,800,920	
Fiscal year 1990	15,648,555,000	
Fiscal year 1991	498,870,000	
RECAPITULATION AND RECONCILIATION		
Federal funds		907,464,931,189
Trust funds		[2] 549,087,105,000
Adjustments for interfund and intragovernmental transactions (see "Compilers' Notes", p. IV)		−217,979,050,000
Net total new budget *(obligational)* authority for session		1,238,572,986,189

[1] Section 401 of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344) requires that all borrowing and contracting authority (so called "backdoor authority") enacted after March 3, 1975, be subject to subsequent appropriation action with certain exceptions which are listed under Sec. 401(d) of the Act (see p. 1956 in the 1974-1975 volume for text of Sec. 401(d)). This amount represents budget authority which falls within those exceptions.

[2] Consists of $5,358,522,000 in "current" trust funds; $1,488,000,000 in trust funds from Legislative Acts; and $542,240,583,000 in "permanent" trust funds.

IVa. COMPARISON OF APPROPRIATIONS BY DEPARTMENTS AND ESTABLISHMENTS, FISCAL YEARS 1988 AND 1989—Continued

[NOTE.—Concept of "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Cong., 2d sess. (see explanation, par. 7, "Compilers' Notes," p. III).]

Agency and item	Fiscal year 1988—100th Cong., 1st sess. 100th Cong., 2d sess.	Fiscal year 1989—100th Cong., 2d sess.	Increase (+) or decrease (−), 1989 compared with 1988
General Government—Continued:			
Legislative acts: Federal funds [1]	[1] −$1,000,000		+$1,000,000
Permanent appropriations:			
Federal funds	5,517,590,000	$3,128,443,000	−2,389,147,000
(Authority to borrow)	*(5,271,791,000)*	*(2,874,435,000)*	*(−2,397,356,000)*
Trust funds	944,596,000	80,305,000	−864,291,000
(Authority to borrow)	*(903,000,000)*	*(27,000,000)*	*(−876,000,000)*
Total, General Government	13,327,639,000	10,006,641,569	−3,320,997,431
General Services Administration:			
Regular annual acts	277,104,000	277,234,000	+130,000
Permanent appropriations: Federal funds	16,708,000	18,668,000	+1,960,000
Total, General Services Administration	293,812,000	295,902,000	+2,090,000
Department of Health and Human Services:			
Regular annual and supplemental acts:			
Food and Drug Administration	483,066,000	536,406,000	+53,340,000
Indian Health Service	1,005,808,000	1,081,774,000	+75,966,000
Health Resources and Services Administration	1,578,265,000	1,634,593,000	+56,328,000
Center for Disease Control	771,772,000	981,905,000	+210,133,000
National Institutes of Health	6,666,693,000	7,152,207,000	+485,514,000
Alcohol, Drug Abuse, and Mental Health Administration	1,439,129,000	1,869,424,000	+430,295,000
Assistant Secretary for Health	195,913,000	172,012,000	−23,901,000
Health Care Financing Administration	48,937,211,000	57,556,284,000	+8,619,073,000
Social Security Administration	10,304,134,000	10,196,165,000	−107,969,000
Family Support Administration	11,077,463,000	10,523,405,000	−554,058,000
Human Development Services Administration	5,966,710,000	6,393,817,000	+427,107,000
Departmental Management	126,495,000	138,753,000	+12,258,000
Total, regular annual and supplemental acts	88,552,659,000	98,236,745,000	+9,684,086,000
Appropriated during 99th Cong., 2d sess. for fiscal year 1988	[4] *(12,598,065,000)*		*(−12,598,065,000)*
Appropriated during 100th Cong., 1st sess. for fiscal year 1989		[4] *(13,750,000,000)*	*(+13,750,000,000)*
Legislative acts: Trust funds [1]	[1] 582,000,000	[1] 1,408,000,000	+826,000,000
Permanent appropriations:			
Federal funds	19,804,686,000	21,192,165,000	+1,387,479,000
Trust funds	360,046,211,000	395,339,558,000	+35,293,347,000
Total, Department of Health and Human Services	468,985,556,000	516,176,468,000	+47,190,912,000
Department of Housing and Urban Development:			
Regular annual and supplemental acts	13,460,112,000	13,124,554,000	−335,558,000
Rescissions	−256,700,000	−353,500,000	−96,800,000
Total, regular annual and supplemental acts *(net)*	13,203,412,000	12,771,054,000	−432,358,000
Permanent appropriations:			
Federal funds	2,119,276,000	1,952,075,000	−167,201,000
(Authority to borrow)	*(2,098,900,000)*	*(1,675,500,000)*	*(−423,400,000)*
Trust funds	5,000	5,000	
Total, Department of Housing and Urban Development *(net)*	15,322,693,000	14,723,134,000	−599,559,000
Department of the Interior:			
Regular annual acts:			
Bureau of Reclamation	956,305,000	993,621,000	+37,316,000
Bureau of Land Management	690,574,000	705,789,000	+15,215,000
United States Fish and Wildlife Service	426,055,000	456,696,000	+30,641,000

See footnotes at end of table p. 2265.

IVa. COMPARISON OF APPROPRIATIONS BY DEPARTMENTS AND ESTABLISHMENTS, FISCAL YEARS 1988 AND 1989

[NOTE.—Concept of "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Cong., 2d sess. (see explanation, par. 7, "Compilers' Notes," p. III).]

Agency and item	Fiscal year 1988—100th Cong., 1st sess. 100th Cong., 2d sess.	Fiscal year 1989—100th Cong., 2d sess.	Increase (+) or decrease (−), 1989 compared with 1988
Department of Agriculture:			
Regular annual, supplemental and continuing acts:			
Agricultural programs	$23,871,233,000	$11,531,383,000	−$12,339,850,000
Rural development programs	10,365,112,000	12,437,106,000	+2,071,994,000
Domestic food programs	16,450,370,000	16,603,385,000	+153,015,000
International programs	1,158,608,000	1,199,836,000	+41,228,000
Forest Service	1,761,320,000	1,885,011,000	+123,691,000
Rescission	−75,000,000	−40,000,000	+35,000,000
Total, regular annual, supplemental and continuing acts *(net)*	53,531,643,000	43,616,721,000	−9,914,922,000
Legislative acts: Federal funds [1]	[1] −1,199,000,000	[1] 412,000,000	+1,611,000,000
Permanent appropriations:			
Federal funds	12,174,842,000	[2] 7,313,114,000	−4,861,728,000
(Authority to borrow)	*(7,364,800,000)*	*(2,282,292,000)*	*(−5,082,508,000)*
Trust funds	383,056,000	400,435,000	+17,379,000
Total, Department of Agriculture *(net)*	64,890,541,000	51,742,270,000	−13,148,271,000
Department of Commerce:			
Regular annual act	2,410,489,000	2,699,162,000	+288,673,000
Rescission	−1,541,067		+1,541,067
Total, regular annual act *(net)*	2,408,947,933	2,699,162,000	+290,214,067
Permanent appropriations:			
Federal funds	56,337,000	56,300,000	−37,000
Trust funds	43,200,000	49,200,000	+6,000,000
Total, Department of Commerce *(net)*	2,508,484,933	2,804,662,000	+296,177,067
Department of Defense—Civil:			
Regular annual acts	3,306,596,000	3,301,524,000	−5,072,000
Permanent appropriations:			
Federal funds	10,298,630,000	10,661,050,000	+362,420,000
Trust funds	34,066,737,000	35,556,505,000	+1,489,768,000
Total, Department of Defense—Civil	47,671,963,000	49,519,079,000	+1,847,116,000
Department of Defense—Military:			
Regular annual acts:			
Army	75,755,920,000	77,853,948,000	+2,098,028,000
Rescission	−421,593,000		+421,593,000
Navy	101,571,208,000	97,519,945,000	−4,051,263,000
Rescission	−1,636,270,000		+1,636,270,000
Air Force	89,590,126,000	94,906,812,000	+5,316,686,000
Rescission	−1,481,367,000		+1,481,367,000
Department of Defense	20,343,037,000	[3] 20,780,048,000	+437,011,000
Rescission	−148,000,000	−19,548,000	+128,452,000
Total, regular annual acts *(net)*	283,573,061,000	291,041,205,000	+7,468,144,000
Appropriated during 99th Cong., 2d sess. for fiscal year 1988	[4] *(221,000,000)*		*(−221,000,000)*
Appropriated during 99th Cong., 2d sess. for fiscal year 1989		[4] *(214,000,000)*	*(+214,000,000)*

See footnotes at end of table p. 2265.

IVa. COMPARISON OF APPROPRIATIONS BY DEPARTMENTS AND ESTABLISHMENTS, FISCAL YEARS 1988 AND 1989—Continued

[NOTE.—Concept of "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Cong., 2d sess. (see explanation, par. 7, "Compilers' Notes," p. III).]

Agency and item	Fiscal year 1988—100th Cong., 1st sess. 100th Cong., 2d sess.	Fiscal year 1989—100th Cong., 2d sess.	Increase (+) or decrease (−), 1989 compared with 1988
Department of Defense—Military—Continued:			
Permanent appropriations:			
Federal funds	$224,000,000	$217,000,000	−$7,000,000
(Authority to borrow)	*(3,000,000)*	*(3,000,000)*	
Trust funds	24,100,000	24,200,000	+100,000
Total, Department of Defense—Military *(net)*	283,821,161,000	291,282,405,000	+7,461,244,000
District of Columbia—Federal funds:			
Regular annual act	550,000,000	536,910,000	−13,090,000
Rescission	−20,000,000		+20,000,000
Total, regular annual acts *(net)*	530,000,000	536,910,000	+6,910,000
Appropriated during 99th Cong., 2d sess. for fiscal year 1988	[4] *(20,000,000)*		*(−20,000,000)*
Appropriated during 100th Cong., 1st sess. for fiscal year 1989		[4] *(20,000,000)*	*(+20,000,000)*
Permanent appropriations: Federal funds	20,000,000	20,000,000	
Total, District of Columbia—Federal Funds *(net)*	550,000,000	556,910,000	+6,910,000
District of Columbia—Payable from District revenues:			
(Regular annual act—net)	*(3,213,224,000)*	*(3,206,095,000)*	*(−7,129,000)*
Department of Education:			
Regular annual and supplemental acts	20,244,786,000	21,903,915,000	+1,659,129,000
Permanent appropriations:			
Federal funds	7,148,000	7,148,000	
Trust funds	10,000	10,000	
Total, Department of Education	20,251,944,000	21,911,073,000	+1,659,129,000
Department of Energy:			
Regular annual acts	12,540,690,000	13,514,083,000	+973,393,000
Appropriated during 100th Cong., 1st sess. for fiscal year 1989		[4] *(525,000,000)*	*(+525,000,000)*
Permanent appropriations:			
Federal funds	166,863,000	662,909,000	+496,046,000
(Authority to borrow)	*(165,000,000)*	*(136,000,000)*	*(−29,000,000)*
Trust funds	138,200,000	144,867,000	+6,667,000
Total, Department of Energy	12,845,753,000	14,321,859,000	+1,476,106,000
Environmental Protection Agency:			
Regular annual act	5,027,442,000	5,155,125,000	+127,683,000
Permanent appropriations: Trust funds	10,000	10,000	
Total, Environmental Protection Agency	5,027,452,000	5,155,135,000	+127,683,000
Foreign Assistance:			
Regular annual and supplemental acts	13,143,706,741	13,767,242,000	+623,535,259
Permanent appropriations:			
Federal funds	22,000,000	[5] 22,000,000	
(Authority to borrow)	*(22,000,000)*	[5] *(22,000,000)*	
Trust funds	7,631,300,000	6,853,300,000	−778,000,000
(Contract authority)	*(7,626,000,000)*	*(6,848,000,000)*	*(−778,000,000)*
Total, Foreign Assistance	20,797,006,741	20,642,542,000	−154,464,741
General Government:			
Regular annual and supplemental acts	6,866,453,000	6,797,893,569	−68,559,431
Appropriated during 99th Cong., 1st sess. and 2d sess. for fiscal year 1988	[4] *(227,200,000)*		*(−227,200,000)*
Appropriated during 99th Cong., 2d sess. for fiscal year 1989		[4] *(238,000,000)*	*(+238,000,000)*

See footnotes at end of table p. 2265.

IVa. COMPARISON OF APPROPRIATIONS BY DEPARTMENTS AND ESTABLISHMENTS, FISCAL YEARS 1988 AND 1989—Continued

[NOTE.—Concept of "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Cong., 2d sess. (see explanation, par. 7, "Compilers' Notes," p. III).]

Agency and item	Fiscal year 1988—100th Cong., 1st sess. 100th Cong., 2d sess.	Fiscal year 1989—100th Cong., 2d sess.	Increase (+) or decrease (−), 1989 compared with 1988
Department of the Interior—Continued:			
Regular annual acts—Continued:			
National Park Service	$895,904,000	$1,032,106,000	+$136,202,000
Rescission	−31,900,000	−30,000,000	+1,900,000
Geological Survey	447,747,000	451,506,000	+3,759,000
Minerals Management Service	168,717,000	170,744,000	+2,027,000
Bureau of Mines	146,398,000	159,292,000	+12,894,000
Office of Surface Mining Reclamation and Enforcement	301,505,000	294,255,000	−7,250,000
Bureau of Indian Affairs	1,072,406,000	1,089,372,000	+16,966,000
Territorial and International Affairs	153,795,000	153,561,000	−234,000
Departmental Offices	90,129,000	94,302,000	+4,173,000
Total, regular annual acts *(net)*	5,317,635,000	5,571,244,000	+253,609,000
Legislative acts:			
Federal funds [1]	[1] 8,000,000	[1] 15,000,000	+7,000,000
Trust funds [1]		[1] 1,000,000	+1,000,000
Permanent appropriations:			
Federal funds	1,204,603,000	1,031,143,000	−173,460,000
(Authority to borrow)	*(1,300,000)*	*(1,300,000)*	
(Contract authority)		*(30,000,000)*	*(+30,000,000)*
Trust funds	508,872,000	611,415,000	+42,543,000
Total, Department of the Interior *(net)*	7,099,110,000	7,229,802,000	+130,692,000
The Judiciary:			
Regular annual and supplemental acts	1,324,805,000	1,444,790,000	+119,985,000
Legislative acts: Trust funds [1]		[1] 58,000,000	+58,000,000
Permanent appropriations: Trust funds	14,863,000	15,735,000	+872,000
Total, The Judiciary	1,339,668,000	1,518,525,000	+178,857,000
Department of Justice:			
Regular annual and supplemental acts	5,089,113,000	5,749,869,000	+660,756,000
Legislative acts: Federal funds [1]		[1] 50,000,000	+50,000,000
Permanent appropriations: Federal funds	303,650,000	256,843,000	−46,807,000
Total, Department of Justice	5,392,763,000	6,056,712,000	+663,949,000
Department of Labor:			
Regular annual and supplemental acts	6,272,006,000	6,464,681,000	+192,675,000
Legislative acts: Trust funds [1]	[1] 715,000,000	[1] 8,000,000	−707,000,000
Permanent appropriations: Trust funds	26,280,010,000	26,187,010,000	−93,000,000
Total, Department of Labor	33,267,016,000	32,659,691,000	−607,325,000
Legislative Branch:			
Regular annual act	1,745,501,500	1,802,624,200	+57,122,700
Legislative acts: Trust funds [1]		[1] 20,000,000	+20,000,000
Permanent appropriations:			
Federal funds	135,671,000	136,992,000	+1,321,000
Trust funds	6,628,000	7,540,000	+912,000
Total, Legislative Branch	1,887,800,500	1,967,156,200	+79,355,700
National Aeronautics and Space Administration:			
Regular annual act	8,856,461,000	10,701,000,000	+1,844,539,000
Rescission		−25,000,000	−25,000,000
Total, National Aeronautics and Space Administration *(net)*	8,856,461,000	10,676,000,000	+1,819,539,000
Office of Personnel Management:			
Regular annual act	6,611,678,000	7,341,082,000	+729,404,000
Legislative acts: Trust funds [1]	[1] 370,000,000		−370,000,000

See footnotes at end of table p. 2265.

IVa. COMPARISON OF APPROPRIATIONS BY DEPARTMENTS AND ESTABLISHMENTS, FISCAL YEARS 1988 AND 1989—Continued

[NOTE.—Concept of "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Cong., 2d sess. (see explanation, par. 7, "Compilers' Notes," p. III).]

Agency and item	Fiscal year 1988—100th Cong., 1st sess. 100th Cong., 2d sess.	Fiscal year 1989—100th Cong., 2d sess.	Increase (+) or decrease (−), 1989 compared with 1988
Office of Personnel Management—Continued:			
Permanent appropriations:			
Federal funds	$11,058,470,000	$12,026,695,000	+$968,225,000
Trust funds	45,821,997,000	48,004,756,000	+2,182,759,000
Total, Office of Personnel Management	63,862,145,000	67,372,533,000	+3,510,388,000
Postal Service:			
Regular annual act	517,001,000	436,417,000	−80,584,000
Legislative acts: Federal funds [1]	[1] −820,000,000		+820,000,000
Permanent appropriations:			
Federal funds	1,182,120,000	2,236,062,000	+1,053,942,000
(Authority to borrow)	*(1,182,120,000)*	*(2,236,062,000)*	*(+1,053,942,000)*
Total, Postal Service	879,121,000	2,672,479,000	+1,793,358,000
Railroad Retirement Board:			
Regular annual act	355,423,000	325,840,000	−29,583,000
Legislative acts: Trust funds [1]	[1] 144,000,000	[1] −1,000,000	−145,000,000
Permanent appropriations:			
Federal funds	2,725,700,000	2,914,300,000	+188,600,000
Trust funds	9,814,609,000	9,677,738,000	−136,871,000
Total, Railroad Retirement Board	13,039,732,000	12,916,878,000	−122,854,000
Small Business Administration:			
Regular annual act	414,985,000	419,143,000	+4,158,000
Legislative acts: Federal funds [1]	[1] −43,000,000		+43,000,000
Permanent appropriations:			
Federal funds	60,000,000		−60,000,000
(Authority to borrow)	*(60,000,000)*		*(−60,000,000)*
Total, Small Business Administration	431,985,000	419,143,000	−12,842,000
Department of State:			
Regular annual and supplemental acts	3,167,505,000	3,260,131,000	+92,626,000
Rescission	−8,000,000		+8,000,000
Total, regular annual and supplemental acts *(net)*	3,159,505,000	3,260,131,000	+100,626,000
Permanent appropriations:			
Federal funds	168,345,000	161,210,000	−7,135,000
Trust funds	729,345,000	788,642,000	+59,297,000
Total, Department of State *(net)*	4,057,195,000	4,209,983,000	+152,788,000
Department of Transportation:			
Regular annual and supplemental acts:			
Office of the Secretary	66,297,000	88,342,000	+22,045,000
Coast Guard	2,517,626,000	2,812,216,000	+294,590,000
Federal Aviation Administration	4,445,521,000	4,991,228,000	+545,707,000
Rescission	−12,000,000	−100,000,000	−88,000,000
Federal Highway Administration	130,614,000	172,504,000	+41,890,000
Rescission		−3,000,000	−3,000,000
National Highway Traffic Safety Administration	92,880,000	98,650,000	+5,770,000
Federal Railroad Administration	667,531,000	672,186,000	+4,655,000
Urban Mass Transportation Administration	2,084,552,000	2,014,882,000	−69,670,000
Saint Lawrence Seaway Development Corporation	10,806,000	11,100,000	+294,000
Research and Special Programs Administration	21,382,000	24,100,000	+2,718,000
Office of the Inspector General	27,898,000	29,000,000	+1,102,000
Maritime Administration	76,463,000	177,001,000	+100,538,000
Consultant Services		−34,171,000	−34,171,000
Total, regular annual and supplemental acts *(net)*	10,129,570,000	10,954,038,000	+824,468,000

See footnotes at end of table p. 2265.

IVa. COMPARISON OF APPROPRIATIONS BY DEPARTMENTS AND ESTABLISHMENTS, FISCAL YEARS 1988 AND 1989—Continued

[NOTE.—Concept of "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Cong., 2d sess. (see explanation, par. 7. "Compilers' Notes," p. III).]

Agency and item	Fiscal year 1988—100th Cong., 1st sess. 100th Cong., 2d sess.	Fiscal year 1989—100th Cong., 2d sess.	Increase (+) or decrease (−), 1989 compared with 1988
Department of Transportation—Continued:			
Legislative acts: Trust funds [1]	[1] $12,671,000,000	.....	−$12,671,000,000
Permanent appropriations:			
Federal funds	69,874,000	$75,161,000	+5,287,000
(Authority to borrow)	*(64,574,000)*	*(69,461,000)*	*(+4,887,000)*
Trust funds	15,093,870,000	16,852,569,000	+1,758,699,000
(Contract authority)	*(15,092,319,000)*	*(16,847,929,000)*	*(+1,755,610,000)*
Total, Department of Transportation *(net)*	37,964,314,000	27,881,768,000	−10,082,546,000
Department of the Treasury:			
Regular annual and supplemental acts	7,407,752,000	7,854,743,000	+446,991,000
Legislative acts: Federal funds [1]	[1] 1,000,000	[1] 15,000,000	+14,000,000
Private appropriation acts	501,269	499,151	−2,118
Permanent appropriations:			
Federal funds	215,561,207,000	226,720,957,000	+11,159,750,000
Trust funds	17,291,000	17,458,000	+167,000
Total, Department of the Treasury	222,987,751,269	234,608,657,151	+11,620,905,882
Veterans Administration:			
Regular annual and supplemental acts	28,241,984,000	28,151,068,000	−90,916,000
Legislative acts:			
Federal funds [1]	[1] −53,000,000	.....	+53,000,000
Trust funds [1]	.....	[1] −6,000,000	−6,000,000
Permanent appropriations:			
Federal funds	365,700,000	.....	−365,700,000
Trust funds	1,700,480,000	1,629,325,000	−71,155,000
Total, Veterans Administration	30,255,164,000	29,774,393,000	−480,771,000
Grand Total:			
Regular annual, supplemental and continuing acts	592,742,291,241	604,641,531,769	+11,899,240,528
Rescissions	−4,092,371,067	−571,048,000	+3,521,323,067
Appropriated in fiscal 1986 and fiscal 1987 for fiscal year 1988	[4] *(13,066,265,000)*	.....	*(−13,066,265,000)*
Appropriated in fiscal 1987 and fiscal 1988 for fiscal year 1989	.....	[4] *(14,747,000,000)*	*(+14,747,000,000)*
Private appropriation acts	501,269	499,151	−2,118
Legislative acts:			
Federal funds [1]	[1] −2,107,000,000	[1] 492,000,000	+2,599,000,000
Trust funds [1]	[1] 14,482,000,000	[1] 1,488,000,000	−12,994,000,000
Permanent appropriations:			
Federal Funds	283,263,420,000	290,810,235,000	+7,546,815,000
(Authority to borrow)	*(16,233,485,000)*	*(9,300,050,000)*	*(−6,933,435,000)*
(Contract authority)	.....	*(30,000,000)*	*(+30,000,000)*
Trust funds	503,325,390,000	542,240,582 000	+38,915,193,000
(Authority to borrow)	*(903,000,000)*	*(27,000,000)*	*(−876,000,000)*
(Contract authority)	*(22,718,319,000)*	*(23,695,929,000)*	*(+977,610,000)*
Net total	1,387,614,231,443	1,439,101,800,920	+51,487,569,477
Less:			
Adjustments for interfund and intragovernmental transactions (see "Compilers' Notes", p. IV)	−197,930,307,000	−217,979,050,000	−20,048,743,000
Appropriated in fiscal 1986 and fiscal 1987 for fiscal year 1988	[4] *(−13,066,265,000)*	.....	*(+13,066,265,000)*
Appropriated in fiscal 1987 and fiscal 1988 for fiscal year 1989	.....	[4] *(−14,747,000,000)*	*(−14,747,000,000)*
Net total	1,189,683,924,443	1,221,122,750,920	+31,438,826,477

See footnotes on next page.

IVa. COMPARISON OF APPROPRIATIONS BY DEPARTMENTS AND ESTABLISHMENTS, FISCAL YEARS 1988 AND 1989—Continued

[1] Section 401 of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344) requires that all borrowing and contracting authority (so called "backdoor authority") enacted after March 3, 1975, be subject to subsequent appropriation action with certain exceptions which are listed under Sec. 401(d) of the Act (see p. 1956 in the 1974–1975 volume for text of Sec. 401(d)). This amount represents budget authority which falls within those exceptions.

[2] The President's budget requested $15,533,425,000 as authority to borrow under "Permanent Federal funds". The Congress provided a current appropriation in lieu of the permanent borrowing authority. The current request was based on the President's estimate of $9,828,286,000 (see p. I–E3, Budget Appendix for fiscal year 1989, H. Doc. 100–153).

[3] Includes $50,300,000 provided in the Military Construction Appropriations Act, 1989 (P.L. 100–447) "for construction, rebuilding and improvement of shore facilities of the United States Coast Guard", an agency of the Department of Transportation (see p. 350, volume 1).

[4] Included under "Permanent appropriations, Federal funds".

[5] Excludes $643,196,000 requested under "Permanent appropriations, Federal funds". Reestimated by the Congressional Budget Office at a level of $939,500,000, this amount was considered as current appropriations in the Foreign Operations, Export Financing, and Related Programs Act, 1989 (P.L. 100–461) (see p. 173, volume 1).

V. CHRONOLOGICAL HISTORY OF REGULAR ANNUAL AND

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Cong.,

Department or establishment	Estimates considered by House	Reported to House		Passed House	
		Date and report No.	Amount	Date	Amount
REGULAR ANNUAL APPROPRIATION ACTS		*1988*		*1988*	
Departments of Commerce, Justice, and State, the Judiciary, and related agencies:					
Department of Commerce	$2,021,294,000	June 10 (100-688)	$2,074,403,000	June 15	$2,074,403,000
Department of Justice	278,017,000	....do....	275,000,000	....do....	275,000,000
Department of State	2,747,117,000	....do....	2,739,966,000	....do....	2,739,966,000
The Judiciary	1,664,953,000	....do....	1,417,793,000	....do....	1,417,793,000
Related agencies	1,503,391,000	....do....	1,459,546,000	....do....	1,459,546,000
(Appropriations to liquidate contract authorizations)					
Total	8,214,772,000		7,966,708,000		7,966,708,000
Department of Defense:					
Military personnel	78,399,300,000	June 10 (100-681)	78,399,522,000	June 21	78,399,522,000
Operation and maintenance	85,633,900,000	....do....	85,718,225,000	....do....	85,718,225,000
Procurement	79,874,500,000	....do....	80,672,640,000	....do....	80,672,640,000
Research, development, test, and evaluation	38,157,100,000	....do....	36,129,396,000	....do....	36,129,396,000
Revolving and management funds	763,500,000	....do....	1,139,500,000	....do....	1,139,500,000
Chemical Agents and Munitions Destruction, Defense	162,900,000	....do....	375,400,000	....do....	375,400,000
Related agencies	168,245,000	....do....	168,145,000	....do....	168,145,000
General provisions					
(Transfer authority)	*(3,000,000,000)*	....do....	*(2,500,000,000)*	....do....	*(2,500,000,000)*
Total	283,159,445,000		282,602,828,000		282,602,828,000
District of Columbia:					
Federal funds to the District of Columbia	541,596,000	June 9 (100-680)	541,596,000	June 28	541,596,000
(District of Columbia funds, fiscal year 1989)	*(3,206,916,000)*	....do....	*(3,206,916,000)*	....do....	*(3,206,916,000)*
(District of Columbia funds, fiscal year 1988 — net)					
Energy and water development:					
Department of Defense—Civil	3,308,098,000	May 11 (100-618)	3,258,332,000	May 17	3,258,332,000
Department of the Interior	971,988,000	....do....	993,759,000	....do....	993,759,000
Department of Energy	13,585,066,000	....do....	13,093,408,000	....do....	13,093,408,000
Independent agencies	279,395,000	....do....	442,001,000	....do....	442,001,000
Total	18,144,547,000		17,787,500,000		17,787,500,000
Foreign operations and export financing, and related programs:					
Multilateral Economic Assistance	1,524,349,989	May 19 (100-641)	1,577,090,646	May 25	1,577,090,646
Bilateral Economic Assistance	6,107,531,000	....do....	6,215,558,270	....do....	6,215,558,270
Military Assistance	5,950,689,000	....do....	5,792,193,750	....do....	5,792,193,750
Export Assistance	725,400,000	....do....	715,000,000	....do....	715,000,000
Total	14,307,969,989		14,299,842,666		14,299,842,666

SUPPLEMENTAL APPROPRIATION BILLS, 100TH CONG., 2D SESS.

2d sess., differs to some extent from previous tabulations. (See explanation, par. 7, "Compilers' Notes", p. III).]

Estimates considered by Senate	Reported to Senate		Passed Senate		Public Law		Bill No.	Law No.
	Date and report No.	Amount	Date	Amount	Date	Amount		
	1988		*1988*		*1988*			
$2,396,467,000	June 20 (100-388)	$2,783,681,000	July 27	$2,783,681,000	Oct. 1	$2,699,162,000		
6,018,517,000	....do....	5,462,978,000	....do....	5,462,978,000	....do....	5,389,469,000		
2,748,917,000	....do....	2,746,307,000	....do....	2,746,307,000	....do....	2,732,341,000		
1,721,933,000	....do....	1,360,247,000	....do....	1,360,247,000	....do....	1,398,973,000	H.R. 4782	100-459
2,617,920,000	....do....	2,653,195,000	....do....	2,653,195,000	....do....	2,629,447,000		
(248,900,000)	....do....	*(248,900,000)*	....do....	*(248,900,000)*	....do....	*(248,900,000)*		
15,503,754,000		15,006,408,000		15,006,408,000		14,849,392,000		
78,399,300,000	June 24 (100-402)	78,461,598,000	Aug. 11	78,461,598,000	Oct. 1	78,489,954,000		
85,633,900,000	....do....	85,176,691,000	....do....	85,314,691,000	....do....	85,293,742,000		
79,874,500,000	....do....	78,881,294,000	....do....	78,934,294,000	....do....	79,323,842,000		
38,157,100,000	....do....	37,605,525,000	....do....	37,414,525,000	....do....	37,663,867,000		
763,500,000	....do....	668,500,000	....do....	668,500,000	....do....	688,500,000	H.R. 4781	100-463
162,900,000	....do....	179,500,000	....do....	179,500,000	....do....	179,500,000		
168,245,000	....do....	1,235,805,000	....do....	1,235,805,000	....do....	664,145,000		
	....do....	441,000,000	....do....	363,100,000	....do....	108,800,000		
(3,000,000,000)	....do....	*(3,000,000,000)*	....do....	*(3,000,000,000)*	....do....	*(3,000,000,000)*		
283,159,445,000		282,649,913,000		282,572,013,000		282,412,350,000		
541,596,000	June 23 (100-398)	532,000,000	July 11	532,000,000	Oct. 1	536,910,000	H.R. 4776	100-462
(3,199,116,000)	....do....	*(3,216,916,000)*	....do....	*(3,216,916,000)*	....do....	*(3,206,095,000)*	S. 2562	
(180,877,000)	....do....	*(103,938,000)*	....do....	*(103,938,000)*	....do....	*(135,877,000)*		
3,308,098,000	June 9 (100-381)	3,236,447,000	June 15	3,236,447,000	July 19	3,236,261,000		
971,988,000	....do....	993,621,000	....do....	993,621,000	....do....	993,621,000		
13,585,066,000	....do....	13,275,332,000	....do....	13,275,332,000	....do....	11,880,112,000	H.R. 4567	100-371
279,395,000	....do....	451,501,000	....do....	451,501,000	....do....	446,001,000		
18,144,547,000		17,956,901,000		17,956,901,000		16,555,995,000		
1,524,349,987	June 22 (100-395)	1,493,590,037	July 7	1,492,081,666	Oct. 1	1,540,744,730		
6,107,531,000	....do....	6,288,591,270	....do....	6,276,091,270	....do....	6,270,948,270		
5,950,689,000	....do....	5,797,849,000	....do....	5,797,849,000	....do....	5,758,339,000	H.R. 4637	100-461
725,400,000	....do....	730,000,000	....do....	730,000,000	....do....	720,000,000		
14,307,969,987		14,310,030,307		14,296,021,936		14,290,032,000		

V. CHRONOLOGICAL HISTORY OF REGULAR ANNUAL AND

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Cong.,

Department or establishment	Estimates considered by House	Reported to House		Passed House	
		Date and report No.	Amount	Date	Amount
REGULAR ANNUAL APPROPRIATION ACTS—Con.		*1988*		*1988*	
Department of Housing and Urban Development—Independent agencies:					
Department of Housing and Urban Development	$11,965,685,000	June 14 (100–701)	$13,283,832,000	June 22	$13,283,832,000
Rescissions *(indefinite)*	−353,500,000	....do....	−353,500,000	....do....	−353,500,000
Independent agencies	47,054,587,000	....do....	46,804,588,000	....do....	46,804,588,000
Rescission		....do....	−25,000,000	....do....	−25,000,000
Corporations *(limitations on administrative expenses)*	*(33,609,000)*	....do....	*(33,609,000)*	....do....	*(33,609,000)*
Total *(net)*	58,666,772,000		59,709,920,000		59,709,920,000
Department of the Interior and related agencies:					
Department of the Interior	3,972,904,000	June 20 (100–713)	4,513,983,000	June 29	4,516,083,000
Rescission		....do....	−30,000,000	....do....	−30,000,000
(Appropriations to liquidate contract authorizations)	*(31,000,000)*	....do....	*(47,000,000)*	....do....	*(47,000,000)*
Related agencies	4,892,070,000	....do....	5,212,065,000	....do....	5,211,715,000
Rescission					
(Appropriations to liquidate contract authorizations)		....do....	*(5,333,000)*	....do....	*(5,333,000)*
Total *(net)*	8,864,974,000		9,696,048,000		9,697,798,000
Departments of Labor, Health and Human Services, and Education, and related agencies:					
Department of Labor	6,143,812,000	June 10 (100–689)	6,562,032,000	June 15	6,562,032,000
Department of Health and Human Services	106,763,880,000	....do....	106,517,505,000	....do....	106,517,505,000
Department of Education	21,084,423,000	....do....	21,948,605,000	....do....	21,948,605,000
Related agencies	738,079,000	....do....	766,550,000	....do....	766,550,000
Total	134,730,194,000		135,794,692,000		135,794,692,000
Legislative branch:					
Congressional operations	902,985,000	May 12 (100–621)	835,773,000	May 19	830,773,000
Other agencies	644,882,000	....do....	571,635,000	....do....	569,379,000
Total	1,547,867,000		1,407,408,000		1,400,152,000
Military construction	8,797,900,000	May 12 (100–620)	8,825,343,000	May 18	8,825,443,000
Rescission		....do....	−29,548,000	....do....	−29,548,000
Total *(net)*	8,797,900,000		8,795,795,000		8,795,895,000
Rural development, Agriculture, and related agencies:					
Agricultural programs	12,385,788,000	June 10 (100–690)	9,427,755,000	June 16	9,427,755,000
Rural development programs	12,102,196,000	....do....	12,409,912,000	....do....	12,409,912,000
Domestic food programs	16,191,249,000	....do....	16,304,657,000	....do....	16,304,657,000
International programs	1,116,229,000	....do....	1,155,444,000	....do....	1,155,444,000
Related agencies	744,453,000	....do....	740,304,000	....do....	740,304,000
Total	42,539,915,000		40,038,072,000		40,038,072,000
Department of Transportation and related agencies:					
Department of Transportation	8,644,616,000	June 10 (100–691)	10,892,637,000	June 29	10,889,352,000
Rescission		....do....	−220,000,000	....do....	−220,000,000
(Appropriations to liquidate contract authorizations)	*(14,900,500,000)*	....do....	*(14,480,500,000)*	....do....	*(14,480,500,000)*
Related agencies	133,296,569	....do....	132,838,569	....do....	132,838,569
General provisions		....do....	3,000,000	....do....	3,000,000
Rescission		....do....	−3,000,000	....do....	−3,000,000
Total *(net)*	8,777,912,569		10,805,475,569		10,802,190,569

See footnotes at end of table p. 2273.

SUPPLEMENTAL APPROPRIATION BILLS, 100TH CONG., 2D SESS.—Continued

2d sess., differs to some extent from previous tabulations. (See explanation, par. 7, "Compilers' Notes", p. III).]

Estimates considered by Senate	Reported to Senate		Passed Senate		Public Law		Bill No.	Law No.
	Date and report No.	Amount	Date	Amount	Date	Amount		
	1988		*1988*		*1988*			
$11,965,685,000	June 24 (100-401)	$13,226,630,000	July 13	$13,226,630,000	Aug. 19	$13,124,554,000		
−353,500,000	....do....	−353,500,000	....do....	−353,500,000	....do....	−353,500,000		
47,054,587,000	....do....	46,228,343,000	....do....	46,228,903,000	....do....	46,639,991,000	H.R. 4800	100-404
.....	....do....	−25,000,000	....do....	−25,000,000	....do....	−25,000,000		
(33,609,000)	....do....	*(33,609,000)*	....do....	*(33,609,000)*	....do....	*(33,609,000)*		
58,666,772,000	.....	59,076,473,000	.....	59,077,033,000	.....	59,386,045,000		
3,972,904,000	July 6 (100-410)	4,537,404,000	July 13	4,538,619,000	Sept. 27	4,607,623,000		
.....	....do....	−30,000,000	....do....	−30,000,000	....do....	−30,000,000		
(31,000,000)	....do....	*(47,000,000)*	....do....	*(47,000,000)*	....do....	*(47,000,000)*	H.R. 4867	100-446
4,892,070,000	....do....	5,622,826,000	....do....	5,622,826,000	....do....	6,355,893,000		
.....	....do....	−40,000,000	....do....	−40,000,000	....do....	−40,000,000		
.....	.....	.....	.....	.....	....do....	(5,333,000)		
8,864,974,000	.....	10,090,230,000	.....	10,091,445,000	.....	10,893,516,000		
6,989,812,000	June 23 (100-399)	6,515,261,000	July 27	6,515,261,000	Sept. 20	6,462,681,000		
109,571,374,000	....do....	111,103,873,000	....do....	111,107,123,000	....do....	111,147,857,000		
21,084,423,000	....do....	21,759,095,000	....do....	21,756,345,000	....do....	21,724,362,000	H.R. 4783	100-436
955,455,000	....do....	1,050,512,000	....do....	1,050,512,000	....do....	1,039,229,000		
138,601,064,000	.....	140,428,741,000	.....	140,429,241,000	.....	140,374,129,000		
1,319,447,200	June 9 (100-382)	1,196,757,200	June 14	1,206,757,200	Oct. 1	[1] 1,231,850,200		
644,882,000	....do....	571,574,000	....do....	571,574,000	....do....	[2] 572,774,000	H.R. 4587	100-458
1,964,329,200	.....	1,768,331,200	.....	1,778,331,200	.....	1,804,624,200		
8,797,000,000	June 9 (100-380)	8,531,479,000	June 15	8,582,359,000	Sept. 28	8,816,548,000		
.....	.....	.....	.....	.....	....do....	−19,548,000	H.R. 4586	100-447
8,797,000,000	.....	8,531,479,000	.....	8,582,359,000	.....	8,797,000,000		
12,385,788,000	June 20 (100-389)	12,548,630,000	July 29	12,550,380,000	Oct. 1	11,531,383,000		
12,102,196,000	....do....	12,445,200,000	....do....	12,445,200,000	....do....	12,437,106,000		
16,191,249,000	....do....	16,241,114,000	....do....	16,659,219,000	....do....	16,603,385,000	H.R. 4784	100-460
1,116,229,000	....do....	1,205,819,000	....do....	1,205,819,000	....do....	1,199,836,000		
744,453,000	....do....	744,453,000	....do....	744,453,000	....do....	741,129,000		
42,539,915,000	.....	43,185,216,000	.....	43,605,071,000	.....	42,512,839,000		
8,644,616,000	July 6 (100-411)	10,521,017,000	July 12	10,530,838,000	Sept. 30	10,785,833,000		
.....	....do....	−100,000,000	....do....	−100,000,000	....do....	−100,000,000		
(14,900,500,000)	....do....	*(15,149,500,000)*	....do....	*(15,149,500,000)*	....do....	*(14,470,500,000)*	H.R. 4794	100-457
133,296,569	....do....	132,729,569	....do....	132,729,569	....do....	132,729,569		
.....	....do....	8,100,000	....do....	8,100,000	....do....	−21,796,000		
.....	.....	.....	.....	.....	....do....	−3,000,000		
8,777,912,569	.....	10,561,846,569	.....	10,571,667,569	.....	10,793,766,569		

V. CHRONOLOGICAL HISTORY OF REGULAR ANNUAL AND

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Cong.,

Department or establishment	Estimates considered by House	Reported to House		Passed House	
		Date and report No.	Amount	Date	Amount
REGULAR ANNUAL APPROPRIATION ACTS—Con.		*1988*		*1988*	
Treasury, Postal Service, and General Government:					
Department of the Treasury	$7,673,317,000	June 9 (100–679)	$7,728,228,000	June 14	$7,728,228,000
United States Postal Service	527,482,000	....do....	436,417,000	....do....	436,417,000
Executive Office of the President	113,353,000	....do....	107,453,000	....do....	107,453,000
Independent agencies	7,849,573,000	....do....	7,841,673,000	....do....	7,841,673,000
Total	16,163,725,000		16,113,771,000		16,113,771,000
Total, regular annual appropriation acts *(net)*	604,457,589,558		605,559,656,235		605,550,965,235
(Appropriations to liquidate contract authorizations)	*(14,931,500,000)*		*(14,532,833,000)*		*(14,532,833,000)*
SUPPLEMENTAL APPROPRIATIONS ACTS					
Assistance to Central America, transfer of funds, 1988 [8]				March 30	*(47,900,000)*
Emergency Mandatory Veterans Supplemental, 1988	551,600,000			April 27	709,100,000
An Act to Extend the Life of the Commission on the Ukraine Famine, 1988			(*)	May 24	
Dire Emergency Supplemental Appropriations Act, 1988:					
Appropriations		July 26 (100–797)	133,659,000	July 27	133,659,000
Rescission					
Total *(net)*			133,659,000		133,659,000
Emergency Supplemental Appropriations, 1988:					
Appropriations	554,791,000	July 26 (100–799)	3,892,950,000		
Rescissions		....do....	−15,700,000		
Total *(net)*	554,791,000		3,877,250,000		
Urgent Supplemental Appropriations Act of 1989 to Meet the Dire Emergency Created by the Crisis of Drug Abuse					
Total, supplemental appropriation acts *(net)*	1,106,391,000		4,010,909,000		834,759,000
RESCISSION ACT					
Budget Rescission Act, 1988 [9]				Feb. 2	−8,000,000
MISCELLANEOUS ACT					
Hand Enrollment of Appropriations Bills for Fiscal Year 1989				Sept. 28	
RECAPITULATION					
Grand total:					
New budget *(obligational)* authority *(net)*	605,563,980,558		609,570,565,235		606,385,724,235
Appropriations	(605,917,480,558)		(610,247,313,235)		(607,046,772,235)
Rescissions *(indefinite)*	(−353,500,000)		(−353,500,000)		(−353,500,000)
Rescissions of unobligated balances			(−307,548,000)		(−307,548,000)
(Appropriations to liquidate contract authorizations)	*(14,931,500,000)*		*(14,532,833,000)*		*(14,532,833,000)*

SUPPLEMENTAL APPROPRIATION BILLS, 100TH CONG., 2D SESS.—Continued

2d sess., differs to some extent from previous tabulations. (See explanation, par. 7, "Compilers' Notes", p. III).]

Estimates considered by Senate	Reported to Senate		Passed Senate		Public Law		Bill No.	Law No.
	Date and report No.	Amount	Date	Amount	Date	Amount		
	1988		*1988*		*1988*			
$7,673,317,000	June 17 (100–387)	$7,538,284,000	June 27	$7,538,284,000	Sept. 22	$7,646,543,000		
527,482,000	....do....	436,417,000	....do....	436,417,000	....do....	436,417,000		
113,353,000	....do....	110,145,000	....do....	110,145,000	....do....	108,310,000	H.R. 4775	100–440
7,849,573,000	....do....	7,832,668,000	....do....	7,832,668,000	....do....	7,828,640,000		
16,163,725,000		15,917,514,000		15,917,514,000		16,019,910,000		
616,033,903,756		620,015,083,076		620,416,005,705		619,226,508,769		
(15,180,400,000)		*(15,445,400,000)*		*(15,445,400,000)*		*(14,771,733,000)*		
			March 31	*(47,900,000)*	April 1	*(47,900,000)*	H.J. Res. 523	100–276
551,600,000			April 28	709,100,000	April 29	709,100,000	H.J. Res. 552	100–304
			April 21		June 17		S. 2304	100–340
498,100,000	Aug. 2 (100–448)	377,609,000	Aug. 10	589,209,000	Aug. 14	613,209,000		
	....do....	−12,000,000	....do....	−12,000,000	....do....	−12,000,000	H.R. 5026	100–393
498,100,000		365,609,000		577,209,000		601,209,000		
							H.R. 5096	[3]
					Nov. 18	[6] 991,400,000	H.R. 5210	100–690
1,049,700,000		365,609,000		1,286,309,000		2,301,709,000		
			Feb. 2	−8,000,000	Feb. 16	−8,000,000	H.R. 3884	100–251
			Sept. 28		Sept. 29		H.J. Res. 665	100–454
617,083,603,756		620,380,692,076		621,694,314,705		621,520,217,769		
(617,437,103,756)		(620,941,192,076)		(622,254,814,705)		(622,111,265,769)		
(−353,500,000)		(−353,500,000)		(−353,500,000)		(−353,500,000)		
		(−195,000,000)		(−195,000,000)		(−237,548,000)		
(15,180,400,000)		*(15,445,400,000)*		*(15,445,400,000)*		*(14,771,733,000)*		

[1] Includes $358,000 appropriated under Title III, General Provisions, sec. 307A.

[2] Includes $2,000,000 appropriated under Title III, General Provisions, sec. 307D.

[3] Introduced and managed by the leadership of the House and the Senate.

[4] Referred to the Foreign Affairs Committee in the House.

[5] H.R. 5096, Emergency Supplemental Appropriations, 1988, was reported to the House of Representatives on July 26, 1988; however, no further action was taken on the bill.

[6] Added to the conference report of H.R. 5210, The Anti-Drug Abuse Act of 1988, P.L. 100–690, as Title X, Supplemental Appropriations, 1989.

NOTE.—The President's Budget for 1989, submitted February 18, 1989 (H. Doc. 100–152), tentatively estimated total new budget (obligational) authority for fiscal year 1989 at $1,233.2 billion net (see p. 6f–180). This consisted of $1,451.2 billion gross and $218 billion in intragovernmental transactions and so-called proprietary receipts handled as offsets for budget purposes only. An estimated $849.2 billion does not require action by Congress (see p. 6g–17). This amount includes permanent appropriations, such as interest on the public debt and various trust funds for which the obligational authority is already provided in the basic law. Virtually all of the remaining $384 billion (including $18.7 billion shown in the budget under the category "to be proposed separately", see p. 6f–181) is for consideration at this session of Congress in the appropriation bills.

VI. COMPARISON OF BUDGET ESTIMATES AND LOAN AND BORROWING AUTHORIZATIONS CARRIED IN APPROPRIATION ACTS, 100TH CONG., 2D SESS.

[NOTE.—For informational purposes only, to separately identify this *type* of new budget authority. The amounts are included in the *totals* of new budget (obligational) authority shown variously in other applicable tabulations.]

Appropriation act and item	Estimates	Loan and borrowing authorizations, fiscal year 1989 and prior years	Increase (+) or decrease (−), authorizations compared with estimates
REGULAR ANNUAL ACTS			
DEPARTMENTS OF COMMERCE, JUSTICE, STATE, AND THE JUDICIARY, AND RELATED AGENCIES			
DEPARTMENT OF JUSTICE			
FEDERAL PRISON SYSTEM			
Federal Prison Industies, Incorporated		$20,000,000	+$20,000,000
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
HOUSING PROGRAMS			
Housing for the elderly or handicapped fund	$288,649,000	418,580,000	+129,931,000
DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES			
DEPARTMENT OF TRANSPORTATION			
FEDERAL AVIATION ADMINISTRATION			
Aircraft purchase loan guarantee program	57,000,000	50,000,000	−7,000,000
Grand total, loan and borrowing authority	345,649,000	488,580,000	+142,931,000

90-600—91——34 (Vol. 2)

VIa. COMPARISON OF BUDGET ESTIMATES AND CONTRACT AUTHORIZATIONS CARRIED IN APPROPRIATION ACTS, 100TH CONG., 2D SESS.

[NOTE.—For informational purposes only, to separately identify this *type* of new budget authority. The amounts are included in the *totals* of new budget (obligational) authority shown variously in other applicable tabulations.]

Appropriation act and item	Estimates	Contract authorizations, fiscal year 1989 and prior years	Increase (+) or decrease (−), contract authorizations compared with estimates
REGULAR ANNUAL ACTS			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
HOUSING PROGRAMS[1]			
Rental housing assistance *(rescission)*	*(−$50,000,000)*	−$50,000,000	[2] −$50,000,000
DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES			
DEPARTMENT OF THE INTERIOR			
NATIONAL PARK SERVICE			
Land and water conservation fund *(rescission)*	.....	−30,000,000	−30,000,000
DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES			
DEPARTMENT OF TRANSPORTATION			
FEDERAL AVIATION ADMINISTRATION			
Grants-in-aid for airports *(Airport and Airway Trust Fund) (rescission)*	.....	−100,000,000	−100,000,000
Total, regular acts *(net)*	.....	−180,000,000	−180,000,000
SUPPLEMENTAL ACTS			
DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 1988			
DEPARTMENT OF TRANSPORTATION			
COAST GUARD			
Grants-in-aid for airports *(Airport and Airway Trust Fund) (rescission)*	.....	−12,000,000	−12,000,000
Grand total, contract authority *(net)*	.....	−192,000,000	−192,000,000

[1] Appropriations for "Annual contributions for assisted housing" and "Rescission of assisted housing deobligations" are no longer considered as contract authority amounts.

[2] Reflects actual rescission, rather than comparison with request.

VIb. COMPARISON OF BUDGET ESTIMATES AND APPROPRIATIONS TO LIQUIDATE CONTRACT AUTHORIZATIONS, 100TH CONG., 2D SESS.

[NOTE.—For informational purposes only, to separately identify the amounts appropriated. The amounts are *not* included in the *totals* of new budget (obligational) authority shown variously in other applicable tabulations.]

Appropriation act and item	Estimates	Appropriations	Increase (+) or decrease (−), appropriations compared with estimates
REGULAR ANNUAL ACTS			
DEPARTMENTS OF COMMERCE, JUSTICE, STATE, AND THE JUDICIARY, AND RELATED AGENCIES			
DEPARTMENT OF TRANSPORTATION			
MARITIME ADMINISTRATION			
Operating-differential subsidies	$248,900,000	$248,900,000	
DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES			
DEPARTMENT OF THE INTERIOR			
NATIONAL PARK SERVICE			
Construction	31,000,000	47,000,000	+$16,000,000
DEPARTMENT OF AGRICULTURE			
FOREST SERVICE			
Mount St. Helens		5,333,000	+5,333,000
Total	31,000,000	52,333,000	+21,333,000
DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES			
DEPARTMENT OF TRANSPORTATION			
COAST GUARD			
Boat safety		30,000,000	+30,000,000
FEDERAL AVIATION ADMINISTRATION			
Grants-in-aid for airports *(Airport and Airway Trust Fund)*	1,110,000,000	1,150,000,000	+40,000,000
FEDERAL HIGHWAY ADMINISTRATION			
Highway-related safety grants *(Highway Trust Fund)*	10,000,000	10,000,000	
Federal-aid highways *(Highway Trust Fund)*	12,700,000,000	12,700,000,000	
Motor carrier safety grants *(Highway Trust Fund)*	50,000,000	50,000,000	
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION			
Highway traffic safety grants *(Highway Trust Fund)*	130,500,000	130,500,000	
URBAN MASS TRANSPORTATION ADMINISTRATION			
Formula transit grants	500,000,000		−500,000,000
Mass transit capital fund *(Highway Trust Fund)*	400,000,000	400,000,000	
Total	14,900,500,000	14,470,500,000	−430,000,000
Grand total, appropriations to liquidate contract authorizations	15,180,400,000	14,771,733,000	−408,667,000

VII. AUTHORIZATIONS FOR APPROPRIATIONS, PUBLIC DEBT TRANSACTIONS, AND CONTRACT AUTHORIZATIONS APPROVED DURING THE 2D SESS. OF THE 100TH CONG.

Number of Public Law	Approval date	Title	Amount of Authorization
	1988	AGRICULTURE ACTS	
100-339	June 17	To authorize the establishment by the Secretary of Agriculture of a plant stress and water conservation research laboratory and program at Lubbock, TX..	(1)
100-387	Aug. 11	To provide drought assistance to agricultural producers	[2]$6,125,000,000
100-399	Aug. 17	To make technical corrections in the Agricultural Credit Act of 1987	.....
100-435	Sept. 19	To require the Secretary of Agriculture to make available additional types of commodities, to improve child nutrition and food stamp programs, and to provide other hunger relief	[2]52,000,000
100-518	Oct. 24	United States grain Standards Act Amendments of 1988	[3]7,600,000
100-532	Oct. 25	Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988	83,000,000
100-546	Oct. 28	To establish a commission to review and make recommendations for the improvement of the Federal Crop Insurance Program	.....
		COMMERCE ACTS	
100-330	June 7	To implement the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America	400,000
100-418	Aug. 23	To enhance the competitiveness of American industry	252,058,000
100-519	Oct. 24	To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1989	174,039,000
100-533	Oct. 25	Women's Business Ownership Act of 1988	10,000,000
100-536	Oct. 28	To authorize appropriations to carry out title I of the Marine Protection, Research, and Sanctuaries Act of 1972 during fiscal years 1989, 1990, and 1991	12,000,000
100-584	Nov. 3	To provide authorization of appropriations for activities of the National Telecommunications and Information Administration	16,700,000
100-589	Nov. 3	To authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991	[2]3,000,000
100-594	Nov. 3	To amend the Communications act of 1934 to provide authorization of appropriations for the Federal Communications Commission	109,250,000
100-627	Nov. 7	To authorize appropriations to carry out titles II and III of the Marine Protection, Research, and Sanctuaries Act of 1972, and to establish the National Oceans Policy Commission	17,750,000
100-636	Nov. 8	To reauthorize the National Ocean Pollution Planning Act of 1978 for fiscal years 1989 and 1990	3,750,000
100-656	Nov. 15	Business Opportunity Development Reform Act of 1988	[3]4,000,000
100-711	Nov. 23	Marine Mammal Protection Act Amendments of 1988	22,250,000
		DEFENSE ACTS	
100-370	July 19	To amend title 10, United States Code, to codify in that title certain defense-related permanent free-standing provisions of law	.....
100-453	Sept. 29	To authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System	168,245,000
100-456	Sept. 29	National Defense Authorization Act for fiscal year 1989	212,366,400,000
100-526	Oct. 24	Defense Authorization Amendments and Base Closure and Realignment Act.	36,292,000
		EDUCATIONAL ACTS	
100-297	Apr. 28	To improve elementary and secondary education	256,000,000
100-351	June 27	To amend the effective date provision of the August F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988	.....
100-382	Aug. 8	To authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989	6,000,000
100-407	Aug. 19	To establish a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities	16,000,000
100-569	Oct. 31	To extend the authorization of appropriations for titles V and VI of the Library Services and Construction Act through fiscal year 1989	15,000,000
100-626	Nov. 7	Public Telecommunications Act of 1988	36,000,000

VII. AUTHORIZATIONS FOR APPROPRIATIONS, PUBLIC DEBT TRANSACTIONS, AND CONTRACT AUTHORIZATIONS APPROVED DURING THE 2D SESS. OF THE 100TH CONG.—Continued

Number of Public Law	Approval date	Title	Amount of Authorization
		ENERGY ACTS	
100-605	Nov. 4	To designate a section of the Columbia River in Washington State as a study area for inclusion in the National Wild and Scenic Rivers System	$150,000
100-615	Nov. 5	To amend the National Energy Conservation Policy Act to improve the Federal Energy Management program	250,000
100-680	Nov. 17	Steel and Aluminum Energy Conservation and Technology Competiveness Act of 1988	5,000,000
		ENVIRONMENTAL ACTS	
100-465	Oct. 3	To authorize the Secretary of State to conclude agreements with the appropriate representative of the Government of Mexico to correct pollution of the Rio Grande	(1)
100-478	Oct. 7	To authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992	51,150,000
100-483	Oct. 12	To authorize appropriations for the Mining and Mineral Resources Research Institute Act for fiscal years 1990 through 1993	(4)
100-490	Oct. 14	To authorize additional appropriations for the WEB Rural Water Development Project	(4)
100-516	Oct. 24	Mni Wiconi Project Act of 1988	182,000,000
100-551	Oct. 28	To assist States in responding to the threat to human health posed by exposure to radon	[3]15,300,000
100-561	Oct. 31	To amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1988 and 1989	10,473,000
100-572	Oct. 31	To amend the Safe Drinking Water Act to control lead in drinking water	50,000,000
100-582	Nov. 1	To require the Administrator of the Environmental Protection Agency to promulgate regulations on the management of infectious waste	(1)
100-610	Nov. 5	To amend title III of the Outer Continental Shelf Lands Act amendments of 1978 to provide for indemnification and hold harmless agreements	
100-676	Nov. 17	Water Resources Development Act of 1988	8,000,000
100-688	Nov. 18	Ocean Dumping Ban Act of 1988	1,500,000
		GENERAL GOVERNMENT ACTS	
100-365	July 13	To provide an authorization for the National Historical Publications and Records Commission programs	6,000,000
100-383	Aug. 10	To implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians	500,000,000
100-398	Aug. 17	To provide for a more orderly transfer of executive power in connection with the expiration of the term of office of a President	[3]1,500,000
100-504	Oct. 18	To amend the Inspector General Act of 1978	[3]1,000,000
100-590	Nov. 3	To amend the Small Business Act and the Small Business Investment Act of 1958	490,000,000
100-598	Nov. 3	To provide for the reauthorization of appropriations for the Office of Government Ethics	2,500,000
100-690	Nov. 18	Anti-Drug Abuse Act of 1988	[3]5,457,000,000
100-703	Nov. 19	To authorize appropriations for the Patent and Trademark Office in the Department of Commerce	117,504,000
100-707	Nov. 23	Disaster Relief and Emergency Assistance Amendments of 1988	8,000,000
		HEALTH AND HUMAN SERVICES ACTS	
100-290	Apr. 18	To amend the Federal Food, Drug, and Cosmetic Act to revise the provisions respecting orphan drugs	12,000,000
100-294	Apr. 25	To amend the Child Abuse Prevention and Treatment Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Family Violence Prevention and Services Act to extend through fiscal year 1991 the authorities established in such Acts	(1)

VII. AUTHORIZATIONS FOR APPROPRIATIONS, PUBLIC DEBT TRANSACTIONS, AND CONTRACT AUTHORIZATIONS APPROVED DURING THE 2D SESS. OF THE 100TH CONG.—Continued

Number of Public Law	Approval date	Title	Amount of Authorization
		HEALTH AND HUMAN SERVICES ACTS—Continued	
100-300	Apr. 29	To establish procedures to implement the 1980 Hague Convention on the Civil Aspects of International Child Abduction	[3] $1,000,000
100-386	Aug. 10	To revise and extend the program of assistance for primary health care and the program of health services for the homeless	515,000,000
100-471	Oct. 4	To provide for the awarding of grants for the purchase of drugs used in the treatment of AIDS	15,000,000
100-485	Oct. 13	Family Support Act of 1988	500,000
100-505	Oct. 18	To authorize the Secretary of Health and Human Services to make grants for demonstration projects for foster care and residential care of infants and young children abandoned in hospitals	10,000,000
100-509	Oct. 20	To amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize such Act	14,300,000
100-579	Oct. 31	To improve the health status of Native Hawaiians	([4])
100-607	Nov. 4	To amend the Public Health Service Act to establish certain health programs, to revise and extend certain health programs	4,207,820,000
100-628	Nov. 7	Stewart B. McKinney Homeless Assistance Amendments Act of 1988	583,800,000
100-630	Nov. 7	Handicapped Programs Technical Amendments Act of 1988	.....
		INTERIOR ACTS	
100-301	Apr. 29	To establish the Big Cypress National Preserve Addition in the State of Florida	49,500,000
100-318	May 13	To provide for the transfer of certain funds to the Secretary of the Interior for the benefit of certain members of the Crow Tribe	.....
100-336	June 17	To authorize an affiliated status with the National Park Service for the Wildlife Prairie Park in the State of Illinois	([4])
100-348	June 27	To establish the Maritime National Historical Park at San Francisco, in the State of California	[3] 6,000
100-355	June 28	To increase the amount authorized to be appropriated with respect to the Sewall-Belmont House National Historic Site	[3] 1,500,000
100-406	Aug. 19	To establish the Grays Harbor National Wildlife Refuge	2,500,000
100-411	Aug. 22	For the relief of the Coushatta Tribe of Louisiana	[3] 1,300,000
100-415	Aug. 22	To authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House	2,353,000
100-421	Sept. 8	To authorize the establishment of the Charles Pinckney National Historic Site in the State of South Carolina	[3] 100,000
100-428	Sept. 9	To authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildfire protection	.....
100-433	Sept. 16	To provide for continuing interpretation of the Constitution in appropriate units of the National Park System by the Secretary of the Interior	[3] 100,000
100-442	Sept. 22	To amend the Indian Financing Act of 1974	[3] 10,000,000
100-475	Oct. 6	To increase the amount authorized to be appropriated for acquisition at the Women's Rights National Historical Park	210,000
100-476	Oct. 6	To authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974	17,039,000
100-479	Oct. 7	To create a national park at Natchez, MS	12,000,000
100-486	Oct. 13	To authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve in the State of New Jersey	[3] 18,100,000
100-515	Oct. 20	To provide for the establishment of the Coastal Heritage Trail Route in the State of New Jersey	[3] 250,000
100-523	Oct. 24	To allow all forest fire fighting employees to be paid overtime without limitation while serving on forest fire emergencies	[3] 100,000
100-524	Oct. 24	To expand the boundaries of the Congaree Swamp National Monument, and to designate wilderness therein	[3] 13,000,000

VII. AUTHORIZATIONS FOR APPROPRIATIONS, PUBLIC DEBT TRANSACTIONS, AND CONTRACT AUTHORIZATIONS APPROVED DURING THE 2D SESS. OF THE 100TH CONG.—Continued

Number of Public Law	Approval date	Title	Amount of Authorization
		INTERIOR ACTS—Continued	
100-534	Oct. 26	West Virginia National Interest River Conservation Act of 1987	[3] $600,000
100-541	Oct. 28	To modify the boundary of the Guadalupe Mountains National Park	[3] 2,000,000
100-552	Oct. 28	To authorize the establishment of the Lewis and Clark National Historic Trail Interpretive Center in the State of Montana	[3] 4,250,000
100-554	Oct. 28	To designate the Wildcat River in the State of New Hampshire as a unit of the National Wild and Scenic River System	[3] 300,000
100-557	Oct. 28	To amend the Wild and Scenic Rivers Act of 1968	52,900,000
100-559	Oct. 28	To redesignate Salinas National Monument in the State of New Mexico	([1])
100-560	Oct. 31	To provide for the establishment of the Poverty Point National Monument	[3] 300,000
100-563	Oct. 31	To increase the amounts authorized for the Colorado River Storage Project and the Central Utah Project	([4])
100-564	Oct. 31	To authorize the acquisition of 25 acres to be used for an administrative headquarters for Canaveral National Seashore	[3] 3,050,000
100-567	Oct. 31	To authorize the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico	[3] 400,000
100-571	Oct. 31	To establish the National Park of American Samoa	[3] 300,000
100-573	Oct. 31	To establish the Delaware Water Gap National Recreation Area Citizen Advisory Commission	[3] 15,000
100-580	Oct. 31	To partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians, to clarify the use of tribal timber proceeds	10,000,000
100-585	Nov. 3	To facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado	([4])
100-653	Nov. 14	To reauthorize and amend certain wildlife laws	12,100,000
100-666	Nov. 16	Navajo and Hopi Indian Relocation Amendments of 1988	43,100,000
100-675	Nov. 17	San Luis Rey Indian Water Rights Settlement Act	30,000,000
100-696	Nov. 18	Arizona-Idaho Conservation Act of 1988	2,100,000
100-698	Nov. 19	To establish in the Department of the Interior the Southwestern Pennsylvania Heritage Preservation Commission	[3] 3,600,000
100-699	Nov. 19	Omnibus Public Lands and National Forests Adjustments Act of 1988	[3] 650,000
100-713	Nov. 23	Indian Health Care Amendments of 1988	23,000,000
		JUDICIAL ACTS	
100-480	Oct. 7	Judiciary Office Building Development Act	([4])
100-702	Nov. 19	Judicial Improvements and Access to Justice Act	[2] 16,300,000
		REVENUE ACT	
100-647	Nov. 10	Technical Corrections and Miscellaneous Revenue Act of 1988	10,000,000
		SCIENCE ACTS	
100-252	Feb. 29	Authorizing appropriations under the Earthquake Hazards Reduction Act of 1977 for fiscal years 1988, 1989 and 1990	79,766,000
100-570	Oct. 31	To authorize appropriations for the National Science Foundation for fiscal years 1989 - 1993	2,051,000,000
100-685	Nov. 17	National Aeronautics and Space Administration Authorizations Act, fiscal year 1989	10,298,227,000
		TRANSPORTATION ACTS	
100-342	June 22	Rail Safety Improvement Act of 1988	43,868,470
100-372	July 19	To amend the Independent Safety Board Act of 1974, to authorize appropriations for fiscal years 1988, 1989, and 1990	28,000,000
100-448	Sept. 28	To authorize appropriations for the Coast Guard for fiscal year 1988	2,896,806,000
100-494	Oct. 14	To amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol	([4])
100-591	Nov. 3	To amend the federal Aviation Act of 1958 relating to aviation research	215,000,000

VII. AUTHORIZATIONS FOR APPROPRIATIONS, PUBLIC DEBT TRANSACTIONS, AND CONTRACT AUTHORIZATIONS APPROVED DURING THE 2D SESS. OF THE 100TH CONG.—Continued

Number of Public Law	Approval date	Title	Amount of Authorization
		TREASURY ACT	
100-274	Mar. 31	To authorize appropriations for the Bureau of the Mint for fiscal year 1988....	[4]
		VETERANS ACTS	
100-253	Feb. 29	To authorize reduction under certain circumstances in the downpayments required for loans made by the Veterans' Administration to finance the sales of properties acquired by the Veterans' Administration as the result of foreclosures and to clarify the calculation of available guaranty entitlements and make other technical and conforming amendments.....	.....
100-321	May 20	Radiation-Exposed Veterans Compensation Act of 1988.....	[3] $36,000,000
100-322	May 20	Veterans' Benefits and Services Act of 1988.....	6,000,000
100-323	May 20	To improve veterans employment, counseling, and job-training services and program.....	60,000,000
100-527	Oct. 25	To establish the Veterans' Administration as an executive department.....	1,500,000
100-687	Nov. 18	Veterans' Administration Adjudication Procedure and Judicial Review Act.....	5,000,000
100-689	Nov. 18	Veterans' Benefits and Programs Improvement Act of 1988.....	[3] 500,000

[1] Indefinite amount not estimated.
[2] Includes definite and indefinite amounts.
[3] Indefinite amount.
[4] No amount for fiscal year 1989.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION

[NOTE.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations. (See explanation, par. 7, "Compilers' Notes", p. III).]

ASSISTANCE TO CENTRAL AMERICA, TRANSFER OF FUNDS, 1988, PUBLIC LAW 100-276, APPROVED APRIL 1, 1988

Agency and item	H. Doc. No. (unless otherwise indicated)	Supplemental estimates of new budget (obligational) authority, 1988	New budget (obligational) authority appropriated, 1988	Increase (+) or decrease (−), appropriations compared with estimates
FUNDS APPROPRIATED TO THE PRESIDENT				
AGENCY FOR INTERNATIONAL DEVELOPMENT				
Assistance for the Nicaraguan democratic resistance *(by transfer)*		.....	*($17,700,000)*	*(+$17,700,000)*
Transportation and administrative expenses *(by transfer)*		.....	*(2,500,000)*	*(+2,500,000)*
Childern's survival assistance *(by transfer)*		.....	*(17,700,000)*	*(+17,700,000)*
Verification Commission *(by transfer)*		.....	*(10,000,000)*	*(+10,000,000)*
Grand total, *(by transfer)*		.....	*(47,900,000)*	*(+47,900,000)*

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

EMERGENCY MANDATORY VETERANS SUPPLEMENTAL APPROPRIATIONS, 1988, PUBLIC LAW 100-304, APPROVED APRIL 29, 1988

Agency and item	H. Doc. No. (unless otherwise indicated)	Supplemental estimates of new budget (obligational) authority, 1988	New budget (obligational) authority appropriated, 1988	Increase (+) or decrease (−), appropriations compared with estimates
VETERANS ADMINISTRATION				
Loan guaranty revolving fund	100-176	$526,600,000	$526,600,000	.....
Readjustment benefits	100-176	25,000,000	182,500,000	+$157,500,000
Grand total, new budget *(obligational)* authority		551,600,000	709,100,000	+157,500,000

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 1988, PUBLIC LAW 100-393, APPROVED AUGUST 14, 1988

Agency and item	H. Doc. No. (unless otherwise indicated)	Supplemental estimates of new budget (obligational) authority, 1988	New budget (obligational) authority appropriated, 1988	Increase (+) or decrease (−), appropriations compared with estimates
TITLE I—DIRE EMERGENCY PROGRAM SUPPLEMENTALS				
DEPARTMENT OF LABOR				
EMPLOYMENT AND TRAINING ADMINISTRATION				
State unemployment insurance and employment service operations *(limitation on trust fund transfer)*			*($15,000,000)*	*(+$15,000,000)*
SMALL BUSINESS ADMINISTRATION				
Salaries and expenses *(by transfer)*	100-176	*($13,000,000)*	*(10,300,000)*	*(−2,700,000)*
DEPARTMENT OF TRANSPORTATION				
COAST GUARD				
Operating expenses			12,000,000	+12,000,000
(By transfer)	100-176	*(60,000,000)*	*(48,000,000)*	*(−12,000,000)*
FEDERAL AVIATION ADMINISTRATION				
Grants-in-aid for airports *(Airport and Airway Trust Fund) (rescission of contract authority)*			−12,000,000	−12,000,000
DEPARTMENT OF JUSTICE				
LEGAL ACTIVITIES				
Salaries and expenses, United States Marshals Service *(by transfer)*	100-214	*(3,500,000)*	*(3,500,000)*	
Support of United States Prisoners			15,000,000	+15,000,000
(By transfer)	100-176 100-214	*(15,000,000)*	*(8,300,000)*	*(−6,700,000)*
Salaries and expenses, Community Relations Service			6,000,000	+6,000,000
(By transfer)	100-176	*(6,000,000)*		*(−6,000,000)*
FEDERAL PRISON SYSTEM				
Salaries and expenses			42,609,000	+42,609,000
(By transfer)	100-176	*(42,609,000)*		*(−42,609,000)*
Total, Department of Justice:				
New budget *(obligational)* authority			63,609,000	+63,609,000
(By transfer)		*(67,109,000)*	*(11,800,000)*	*(−55,309,000)*
DEPARTMENT OF AGRICULTURE				
AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE				
Salaries and expenses *(by transfer)*			*(45,427,000)*	*(+45,427,000)*
SOIL CONSERVATION SERVICE				
Watershed and flood prevention operations *(by transfer)*			*(10,000,000)*	*(+10,000,000)*
DEPARTMENT OF HEALTH AND HUMAN SERVICES				
FOOD AND DRUG ADMINISTRATION				
Salaries and expenses			5,500,000	+5,500,000

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 1988, PUBLIC LAW 100-393, APPROVED AUGUST 14, 1988—Continued

Agency and item	H. Doc. No. (unless otherwise indicated)	Supplemental estimates of new budget (obligational) authority, 1988	New budget (obligational) authority appropriated, 1988	Increase (+) or decrease (−), appropriations compared with estimates
FUNDS APPROPRIATED TO THE PRESIDENT				
DEPARTMENT OF STATE				
United States Emergency Migration and Refugee Assistance Fund			$24,000,000	+$24,000,000
DEPARTMENT OF DEFENSE—MILITARY				
ADMINISTRATIVE PROVISION				
Salaries and expenses, Federal Bureau of Investigation *(transfer to Department of Justice)*	100-176	*($22,600,000)*	*(14,000,000)*	*(−8,600,000)*
OTHER INDEPENDENT AGENCIES				
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION				
Research and program management *(by transfer)*	100-176	*(42,000,000)*	*(19,600,00[illegible]*	*(−22,400,000)*
VETERANS ADMINISTRATION				
Compensation and pensions	100-176	498,100,000	498,100,000	
Medical care			10,000,000	+10,000,000
(By transfer)			*(21,730,000)*	*(+21,730,000)*
Total, Veterans Administration:				
New budget *(obligational)* authority		498,100,000	508,100,000	+10,000,000
(By transfer)			*(21,730,000)*	*(+21,730,000)*
Grand total:				
New budget *(obligational)* authority *(net)*		498,100,000	601,209,000	+103,109,000
Appropriations		(498,100,000)	(613,209,000)	(+115,109,000)
Rescission of contract authority			(−12,000,000)	(−12,000,000)
(By transfer)		*(182,109,000)*	*(166,857,000)*	*(−15,252,000)*
(Transfer)		*(22,600,000)*	*(14,000,000)*	*(−8,600,000)*
(Limitation on trust fund transfer)			*(15,000,000)*	*(+15,000,000)*

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-459, APPROVED OCTOBER 1, 1988

Agency and item	Estimates of new budget (obligational) authority, 1989 [1]	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
TITLE I—DEPARTMENT OF COMMERCE			
GENERAL ADMINISTRATION			
Salaries and expenses	$41,303,000	$40,404,000	−$899,000
BUREAU OF THE CENSUS			
Salaries and expenses	103,970,000	96,035,000	−7,935,000
Periodic censuses and programs	567,211,000	517,304,000	−49,907,000
Total, Bureau of the Census	671,181,000	613,339,000	−57,842,000
ECONOMIC AND STATISTICAL ANALYSIS			
Salaries and expenses	32,539,000	32,899,000	+360,000
ECONOMIC DEVELOPMENT ADMINISTRATION			
Economic development assistance programs		182,028,000	+182,028,000
(Limitation on loan guarantees)		*(150,000,000)*	*(+150,000,000)*
Salaries and expenses	40,000,000	24,742,000	−15,258,000
Total, Economic Development Administration	40,000,000	206,770,000	+166,770,000
INTERNATIONAL TRADE ADMINISTRATION			
Operations and administration	169,337,000	167,502,000	−1,835,000
EXPORT ADMINISTRATION			
Operations and administration	39,313,000	40,106,000	+793,000
MINORITY BUSINESS DEVELOPMENT AGENCY			
Minority business development		39,705,000	+39,705,000
UNITED STATES TRAVEL AND TOURISM ADMINISTRATION			
Salaries and expenses	11,000,000	13,800,000	+2,800,000
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION			
Operations, research, and facilities	1,064,371,000	1,211,652,000	+147,281,000
Aviation weather services program *(Airport and Airways Trust Fund)*	30,000,000	28,717,000	−1,283,000
(By transfer from Promote and Develop Fund)	*(56,300,000)*	*(45,600,000)*	*(−10,700,000)*
(By transfer from Coastal Energy Impact Fund)	*(6,500,000)*	*(6,500,000)*	
Total, operations, research, and facilities	1,094,371,000	1,240,369,000	+145,998,000
Fisheries promotional fund *(availability of funds)*		*(3,000,000)*	*(+3,000,000)*
Fishing vessel and gear damage fund	500,000		−500,000
Fishermen's contingency fund	750,000	719,000	−31,000
Foreign fishing observer fund	2,000,000	1,919,000	−81,000
Total, National Oceanic and Atmospheric Administration	1,097,621,000	1,243,007,000	+145,386,000
PATENT AND TRADEMARK OFFICE			
Salaries and expenses	122,504,000	109,000,000	−13,504,000
NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY			
Scientific and technical research and services	158,039,000	159,000,000	+961,000

See footnotes at end of table, p. 2296.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-459, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989 [1]	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION			
Salaries and expenses	$13,630,000	$13,630,000	
Public telecommunications facilities, planning and construction		20,000,000	+$20,000,000
Total, National Telecommunications and Information Administration	13,630,000	33,630,000	+20,000,000
Total, title I, Department of Commerce:			
New budget *(obligational)* authority	2,396,467,000	2,699,162,000	+302,695,000
(By transfer)	*(62,800,000)*	*(52,100,000)*	*(−10,700,000)*
(Limitation on loan guarantees)		*(150,000,000)*	*(+150,000,000)*
(Availability of funds)		*(3,000,000)*	*(+3,000,000)*
TITLE II—DEPARTMENT OF JUSTICE			
GENERAL ADMINISTRATION			
Salaries and expenses	100,802,000	88,360,000	−12,442,000
UNITED STATES PAROLE COMMISSION			
Salaries and expenses	10,893,000	10,893,000	
LEGAL ACTIVITIES			
Salaries and expenses, general legal activities	270,186,000	242,994,000	−27,192,000
Salaries and expenses, Antitrust Division	47,021,000	44,937,000	−2,084,000
Salaries and expenses, United States Attorneys	424,418,000	391,212,000	−33,206,000
United States Trustee System Fund	59,493,000	47,370,000	−12,123,000
Salaries and expenses, Foreign Claims Settlement Commission	472,000	472,000	
Salaries and expenses, United States Marshals Service	207,582,000	190,000,000	−17,582,000
Support of United States prisoners	118,265,000	93,700,000	−24,565,000
Fees and expenses of witnesses	51,569,000	52,203,000	+634,000
Salaries and expenses, Community Relations Service	28,815,000	27,858,000	−957,000
Assets forfeiture fund	200,000,000	75,000,000	−125,000,000
Total, legal activities	1,407,821,000	1,165,746,000	−242,075,000
FEDERAL BUREAU OF INVESTIGATION			
Salaries and expenses	1,503,307,000	1,409,000,000	−94,307,000
INF treaty activities	15,100,000	15,100,000	
Total, Federal Bureau of Investigation	1,518,407,000	1,424,100,000	−94,307,000
DRUG ENFORCEMENT ADMINISTRATION			
Salaries and expenses	538,072,000	505,000,000	−33,072,000
IMMIGRATION AND NATURALIZATION SERVICE			
Salaries and expenses	859,276,000	800,000,000	−59,276,000
FEDERAL PRISON SYSTEM			
Salaries and expenses	970,195,000	953,012,000	−17,183,000
National Institute of Corrections	9,821,000	9,590,000	−231,000
Buildings and facilities	525,213,000	203,693,000	−321,520,000
Federal Prison Industries, Incorporated: *(Limitation on borrowing authority)*		*(20,000,000)*	*(+20,000,000)*
Federal Prison Industries, Incorporated: *(Limitation on administrative and vocational expenses)*	*(10,051,000)*	*(7,051,000)*	*(−3,000,000)*
Total, Federal prison system	1,505,229,000	1,166,295,000	−338,934,000

See footnotes at end of table, p. 2296.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-459, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989 [1]	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
OFFICE OF JUSTICE PROGRAMS			
Justice Assistance	$78,017,000	$229,075,000	+$151,058,000
Total, title II, Department of Justice:			
New budget *(obligational)* authority	6,018,517,000	5,389,469,000	−629,048,000
(Limitation of borrowing authority)		*(20,000,000)*	*(+20,000,000)*
(Limitation on administrative expenses)	*(10,051,000)*	*(7,051,000)*	*(−3,000,000)*
TITLE III—DEPARTMENT OF STATE			
ADMINISTRATION OF FOREIGN AFFAIRS			
Salaries and expenses	1,799,250,000	1,784,250,000	−15,000,000
Representation allowances	4,590,000	4,590,000	
Protection of foreign missions and officials	9,100,000	9,100,000	
Acquisition and maintenance of buildings abroad	240,021,000	240,021,000	
Emergencies in the diplomatic and consular service	4,500,000	4,500,000	
Payment to the American Institute in Taiwan	10,890,000	10,890,000	
Payment to the Foreign Service Retirement and Disability Fund	107,684,000	107,684,000	
Total, Administration of Foreign Affairs	2,176,035,000	2,161,035,000	−15,000,000
INTERNATIONAL ORGANIZATIONS AND CONFERENCES			
Contributions to international organizations	489,906,000	485,940,000	−3,966,000
Contributions for international peacekeeping activities	29,000,000	29,000,000	
International conferences and contingencies	6,000,000	6,000,000	
Total, International Organizations and Conferences	524,906,000	520,940,000	−3,966,000
INTERNATIONAL COMMISSIONS			
International Boundary and Water Commission, United States and Mexico:			
Salaries and expenses	10,466,000	10,261,000	−205,000
Construction	5,800,000	3,166,000	−2,634,000
American sections, international commissions	4,400,000	4,316,000	−84,000
International fisheries commissions	10,760,000	10,548,000	−212,000
Total, International Commissions	31,426,000	28,291,000	−3,135,000
OTHER			
United States Bilateral Science and Technology Agreements	2,000,000	2,000,000	
Payment to the Asia Foundation	8,000,000	13,700,000	+5,700,000
Soviet-East European research and training	5,000,000	4,600,000	−400,000
Fishermen's guaranty fund	1,800,000	1,725,000	−75,000
Total, Other	16,800,000	22,025,000	+5,225,000
GENERAL PROVISIONS			
Expenses of participation in U.S.—E.C. Interparliamentary Group (sec. 303)		50,000	+50,000
Total, title III, Department of State, new budget *(obligational)* authority	2,749,167,000	2,732,341,000	−16,826,000
TITLE IV—THE JUDICIARY			
SUPREME COURT OF THE UNITED STATES			
Salaries and expenses:			
Salaries of justices	1,055,000	1,116,000	+61,000
Other salaries and expenses	15,393,000	14,785,000	−608,000
Total, salaries and expenses	16,448,000	15,901,000	−547,000

See footnotes at end of table, p. 2296.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-459, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989[1]	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
SUPREME COURT OF THE UNITED STATES—CONTINUED			
Care of the building and grounds	$2,384,000	$2,131,000	−$253,000
Total, Supreme Court of the United States	18,832,000	18,032,000	−800,000
UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT			
Salaries and expenses:			
Salaries of judges	1,214,000	1,287,000	+73,000
Other salaries and expenses	7,486,000	7,013,000	−473,000
Total, salaries and expenses	8,700,000	8,300,000	−400,000
UNITED STATES COURT OF INTERNATIONAL TRADE			
Salaries and expenses:			
Salaries of judges	858,000	909,000	+51,000
Other salaries and expenses	7,306,000	7,091,000	−215,000
Total, salaries and expenses	8,164,000	8,000,000	−164,000
COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES			
Salaries and expenses:			
Salaries of judges	99,736,000	105,235,000	+5,499,000
Other salaries and expenses	1,285,777,000	1,029,765,000	−256,012,000
Total, salaries and expenses	1,385,513,000	1,135,000,000	−250,513,000
Defender services	137,815,000	95,100,000	−42,715,000
Fees of jurors and commissioners	46,500,000	43,135,000	−3,365,000
Court security	56,980,000	41,423,000	−15,557,000
Total, Courts of Appeals, District Courts, and Other Judicial Services	1,626,808,000	1,314,658,000	−312,150,000
ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS			
Salaries and expenses	41,970,000	33,600,000	−8,370,000
FEDERAL JUDICIAL CENTER			
Salaries and expenses	12,109,000	11,200,000	−909,000
UNITED STATES SENTENCING COMMISSION			
Salaries and expenses	5,350,000	5,183,000	−167,000
Total, title IV, the Judiciary, new budget *(obligational)* authority	1,721,933,000	1,398,973,000	−322,960,000
TITLE V—RELATED AGENCIES			
DEPARTMENT OF TRANSPORTATION			
MARITIME ADMINISTRATION			
Ready reserve force	110,751,000	110,751,000	
Operating-differential subsidies *(liquidation of contract authority)*	*(248,900,000)*	*(248,900,000)*	
Operations and training	74,100,000	66,250,000	−7,850,000
Total, Maritime Administration	184,851,000	177,001,000	−7,850,000
ARMS CONTROL AND DISARMAMENT AGENCY			
Arms control and disarmament activities	32,000,000	31,030,000	−970,000

See footnotes at end of table, p. 2296.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-459, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989 [1]	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
BOARD FOR INTERNATIONAL BROADCASTING			
Grants and expenses	$192,100,000	$194,900,000	+$2,800,000
Israel relay station	35,000,000	33,000,000	−2,000,000
Total, Board for International Broadcasting	227,100,000	227,900,000	+800,000
CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION			
Salaries and expenses	220,000	212,000	−8,000
COMMISSION ON AGRICULTURAL WORKERS			
Salaries and expenses		500,000	+500,000
COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION			
Salaries and expenses	11,436,000	6,936,000	−4,500,000
COMMISSION ON CIVIL RIGHTS			
Salaries and expenses	13,376,000	5,707,000	−7,669,000
COMMISSION ON SECURITY AND COOPERATION IN EUROPE			
Salaries and expenses	780,000	741,000	−39,000
COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT			
Salaries and expenses	890,000	1,290,000	+400,000
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION			
Salaries and expenses	194,624,000	180,712,000	−13,912,000
FEDERAL COMMUNICATIONS COMMISSION			
Salaries and expenses	104,700,000	99,613,000	−5,087,000
Reappropriation, indefinite		742,000	+742,000
Total, Federal Communications Commission	104,700,000	100,355,000	−4,345,000
FEDERAL MARITIME COMMISSION			
Salaries and expenses	15,150,000	13,585,000	−1,565,000
FEDERAL TRADE COMMISSION			
Salaries and expenses	67,503,000	66,243,000	−1,260,000
INTERNATIONAL TRADE COMMISSION			
Salaries and expenses	37,069,000	35,958,000	−1,111,000
JAPAN—UNITED STATES FRIENDSHIP COMMISSION			
Japan—United States Friendship Trust Fund	1,415,000	1,415,000	
(Foreign currency appropriation)	*(1,700,000)*	*(1,700,000)*	
LEGAL SERVICES CORPORATION			
Payment to the Legal Services Corporation	250,000,000	308,555,000	+58,555,000
MARINE MAMMAL COMMISSION			
Salaries and expenses	933,000	953,000	+20,000

See footnotes at end of table, p. 2296.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-459, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989[1]	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE			
Salaries and expenses	$15,393,000	$15,229,000	−$164,000
SECURITIES AND EXCHANGE COMMISSION			
Salaries and expenses	160,925,000	142,640,000	−18,285,000
SMALL BUSINESS ADMINISTRATION			
Salaries and expenses	249,080,000	228,490,000	−20,590,000
(By transfer, indefinite)	*(88,228,000)*	*(88,669,000)*	*(+441,000)*
Business Loan and Investment Fund	130,000,000	167,500,000	+37,500,000
Surety bond guarantees revolving fund	11,000,000	9,497,000	−1,503,000
Pollution control equipment contract guarantee revolving fund	14,000,000	13,656,000	−344,000
Total, Small Business Administration	404,080,000	419,143,000	+15,063,000
STATE JUSTICE INSTITUTE			
Salaries and expenses	[2] 15,000,000	10,980,000	−4,020,000
UNITED STATES INFORMATION AGENCY			
Salaries and expenses	622,400,000	620,347,000	−2,053,000
Educational and cultural exchange programs	146,100,000	150,040,000	+3,940,000
Radio construction	65,000,000	65,000,000	
Radio broadcasting to Cuba	11,175,000	11,175,000	
East-West Center	20,000,000	20,000,000	
National Endowment for Democracy	15,800,000	15,800,000	
Total, United States Information Agency	880,475,000	882,362,000	+1,887,000
Total, title V, Related agencies:			
New budget *(obligational)* authority	2,617,920,000	2,629,447,000	+11,527,000
Appropriations, definite	(2,617,920,000)	(2,628,705,000)	(+10,785,000)
Reappropriation, indefinite		(742,000)	(+742,000)
(By transfer)	*(88,228,000)*	*(88,669,000)*	*(+441,000)*
(Liquidation of contract authority)	*(248,900,000)*	*(248,900,000)*	
(Foreign currency appropriation)	*(1,700,000)*	*(1,700,000)*	
Grand total:			
New budget *(obligational)* authority	15,504,004,000	14,849,392,000	−654,612,000
Appropriations, definite	(15,504,004,000)	(14,848,650,000)	(−655,354,000)
Reappropriation, indefinite		(742,000)	(+742,000)
(By transfer)	*(151,028,000)*	*(140,769,000)*	*(−10,259,000)*
(Limitation of borrowing authority)		*(20,000,000)*	*(+20,000,000)*
(Limitation on administrative expenses)	*(10,051,000)*	*(7,051,000)*	*(−3,000,000)*
(Limitation on loan guarantees)		*(150,000,000)*	*(+150,000,000)*
(Liquidation of contract authority)	*(248,900,000)*	*(248,900,000)*	
(Foreign currency appropriation)	*(1,700,000)*	*(1,700,000)*	
(Availability of funds)		*(3,000,000)*	*(+3,000,000)*

[1] Includes the following budget amendments:
H. Doc. 100-176:
Department of Justice:
Legal Activities:
Assets forfeiture fund ..... −$88,659,000
Federal Prison System:
Buildings and facilities 88,659,000
Salaries and expenses 36,486,000
Total, H. Doc. 100-176 (*net*) 36,486,000

H. Doc. 100-214:
Department of Commerce:
Patent and Trademark Office ..... −5,000,000
Total, budget amendments (*net*) 31,486,000

[2] Reflects budget estimate as submitted to Congress by the State Justice Institute pursuant to Sec. 205(c) of Public Law 98-620. The President's budget for fiscal year 1989 (H. Doc. 100-152) did not request any funds for the Institute.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-463, APPROVED OCTOBER 1, 1988

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
TITLE I			
MILITARY PERSONNEL			
Military Personnel, Army	$24,418,500,000	$24,484,745,000	+$66,245,000
Military Personnel, Navy	18,965,300,000	18,962,456,000	−2,844,000
Military Personnel, Marine Corps	5,716,200,000	5,716,200,000	
Military Personnel, Air Force	20,094,200,000	20,102,603,000	+8,403,000
Reserve Personnel, Army	2,260,000,000	2,261,200,000	+1,200,000
Reserve Personnel, Navy	1,621,400,000	1,621,400,000	
Reserve Personnel, Marine Corps	315,700,000	315,700,000	
Reserve Personnel, Air Force	655,300,000	657,964,000	+2,664,000
National Guard Personnel, Army	3,325,300,000	3,334,000,000	+8,700,000
National Guard Personnel, Air Force	1,027,400,000	1,033,686,000	+6,286,000
Total, title I, Military Personnel, new budget *(obligational)* authority	78,399,300,000	78,489,954,000	+90,654,000
TITLE II			
OPERATION AND MAINTENANCE			
Operation and Maintenance, Army	22,085,200,000	22,083,496,000	−1,704,000
Operation and Maintenance, Navy	24,945,800,000	24,852,100,000	−93,700,000
Operation and Maintenance, Marine Corps	1,792,000,000	1,817,000,000	+25,000,000
Operation and Maintenance, Air Force	21,950,000,000	21,721,673,000	−228,327,000
Operation and Maintenance, Defense Agencies	7,710,600,000	7,635,973,000	−74,627,000
Operation and Maintenance, Army Reserve	794,900,000	794,900,000	
Operation and Maintenance, Navy Reserve	979,200,000	979,200,000	
Operation and Maintenance, Marine Corps Reserve	77,500,000	77,500,000	
Operation and Maintenance, Air Force Reserve	1,028,500,000	1,033,900,000	+5,400,000
Operation and Maintenance, Army National Guard	1,797,000,000	1,801,200,000	+4,200,000
Operation and Maintenance, Air National Guard	1,965,400,000	1,971,000,000	+5,600,000
National Board for the Promotion of Rifle Practice, Army	4,300,000	4,300,000	
Court of Military Appeals, Defense	3,500,000	3,500,000	
Environmental Restoration, Defense	500,000,000	500,000,000	
Goodwill Games		5,000,000	+5,000,000
Humanitarian Assistance		13,000,000	+13,000,000
Total, title II, Operation and Maintenance, new budget *(obligational)* authority	85,633,900,000	85,293,742,000	−340,158,000
TITLE III			
PROCUREMENT			
Aircraft Procurement, Army	2,791,500,000	2,883,700,000	+92,200,000
Missile Procurement, Army	2,586,600,000	2,602,800,000	+16,200,000
Procurement of Weapons and Tracked Combat Vehicles, Army	2,960,600,000	2,830,921,000	−129,679,000
Procurement of Ammunition, Army	2,007,800,000	2,012,970,000	+5,170,000
Other Procurement, Army	4,774,000,000	4,568,011,000	−205,989,000
Aircraft Procurement, Navy	8,980,000,000	9,415,311,000	+435,311,000
Weapons Procurement, Navy	6,271,800,000	6,154,032,000	−117,768,000
Shipbuilding and Conversion, Navy	9,130,100,000	9,055,543,000	−74,557,000
Other Procurement, Navy	4,789,700,000	4,813,969,000	+24,269,000
Procurement, Marine Corps	1,157,300,000	1,297,265,000	+139,965,000
Aircraft Procurement, Air Force	16,630,000,000	15,922,499,000	−707,501,000
Missile Procurement, Air Force	8,158,000,000	7,219,683,000	−938,317,000
Other Procurement, Air Force	8,393,500,000	8,188,638,000	−204,862,000
National Guard and Reserve Equipment		1,138,900,000	+1,138,900,000
Procurement, Defense Agencies	1,216,100,000	1,186,100,000	−30,000,000
Defense Production Act Purchases	27,500,000	33,500,000	+6,000,000
Total, title III, Procurement, new budget *(obligational)* authority	79,874,500,000	79,323,842,000	−550,658,000

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-463, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
TITLE IV			
RESEARCH, DEVELOPMENT, TEST, AND EVALUATION			
Research, Development, Test, and Evaluation, Army	$5,030,700,000	$5,130,166,000	+$99,466,000
Research, Development, Test, and Evaluation, Navy	9,216,200,000	9,382,312,000	+166,112,000
Research, Development, Test, and Evaluation, Air Force	14,932,100,000	14,502,347,000	−429,753,000
Research, Development, Test, and Evaluation, Defense Agencies	8,667,800,000	8,427,908,000	−239,892,000
Developmental Test and Evaluation, Defense	166,900,000	149,900,000	−17,000,000
Operational Test and Evaluation, Defense	143,400,000	71,234,000	−72,166,000
Total, title IV, Research, Development, Test, and Evaluation, new budget *(obligational)* authority	38,157,100,000	37,663,867,000	−493,233,000
TITLE V			
REVOLVING AND MANAGEMENT FUNDS			
Army Stock Fund	321,900,000	291,900,000	−30,000,000
Navy Stock Fund	204,700,000	184,700,000	−20,000,000
Air Force Stock Fund	206,900,000	186,900,000	−20,000,000
Defense Stock Fund	30,000,000	25,000,000	−5,000,000
Total, title V, Revolving and Management Funds, new budget *(obligational)* authority	763,500,000	688,500,000	−75,000,000
TITLE VI			
CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE			
Operation and maintenance	88,200,000	117,300,000	+29,100,000
Research, development, test, and evaluation	700,000	17,900,000	+17,200,000
Procurement	74,000,000	44,300,000	−29,700,000
Total, title VI, Chemical Agents and Munitions Destruction, Defense, new budget *(obligational)* authority	162,900,000	179,500,000	+16,600,000
TITLE VII			
RELATED AGENCIES			
Central Intelligence Agency Retirement and Disability System Fund	144,500,000	144,500,000	
Intelligence Community Staff	23,745,000	23,645,000	−100,000
Drug Interdiction Defense		210,000,000	+210,000,000
(By transfer)		*(90,000,000)*	*(+90,000,000)*
Special Operations Forces Fund		286,000,000	+286,000,000
Total, title VII, Related Agencies:			
New budget *(obligational)* authority	168,245,000	664,145,000	+495,900,000
(By transfer)		*(90,000,000)*	*(+90,000,000)*
TITLE VIII			
GENERAL PROVISIONS			
(Additional transfer authority, sec. 8014)	*(3,000,000,000)*	*(3,000,000,000)*	
Military Pay Raise Absorption (sec. 8106)		−150,000,000	−150,000,000
Coast Guard, operating expenses *(transfer sec. 8110)*		*(60,000,000)*	*(+60,000,000)*
Bureau of Land Management *(transfer sec. 8128)*		*(5,500,000)*	*(+5,500,000)*
Sec. 8129:			
Shipbuilding and Conversion, Navy *(by transfer)*		*(960,900,000)*	*(+960,900,000)*
Other procurement, Navy *(by transfer)*		*(110,700,000)*	*(+110,700,000)*
Total, sec. 8129 *(by transfer)*		*(1,071,600,000)*	*(+1,071,600,000)*

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-463, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
Shipbuilding and Conversion, Navy (sec. 8130)		$438,800,000	+$438,800,000
(By transfer sec. 8130)		*(349,200,000)*	*(+349,200,000)*
Contractor travel (sec. 8134)		−30,000,000	−30,000,000
Consultant Services (sec. 8137)		−150,000,000	−150,000,000
Total, title VIII, General Provisions:			
New budget *(obligational)* authority		108,800,000	+108,800,000
(By transfer)		*(1,420,800,000)*	*(+1,420,800,000)*
(Transfer to other agencies)		*(65,500,000)*	*(+65,500,000)*
RECAPITULATION			
Title I—Military Personnel	$78,399,300,000	78,489,954,000	+90,654,000
Title II—Operation and Maintenance	85,633,900,000	85,293,742,000	−340,158,000
Title III—Procurement	79,874,500,000	79,323,842,000	−550,658,000
Title IV—Research, Development, Test, and Evaluation	38,157,100,000	37,663,867,000	−493,233,000
Title V—Revolving and management funds	763,500,000	688,500,000	−75,000,000
Title VI—Chemical Agents and Munitions Destruction, Defense	162,900,000	179,500,000	+16,600,000
Title VII—Related agencies	168,245,000	664,145,000	+495,900,000
(By transfer)		*(90,600,000)*	*(+90,000,000)*
Title VIII—General provisions		108,800,000	+108,800,000
(By transfer)		*(1,420,800,000)*	*(+1,420,800,000)*
(Additional transfer authority)	*(3,000,000,000)*	*(3,000,000,000)*	
Total, Department of Defense	283,159,445,000	282,412,350,000	−747,095,000
(By transfer)		*(1,510,800,000)*	*(+1,510,800,000)*
Total funding available	283,159,445,000	283,923,150,000	+763,705,000
(Transfer authority)	*(3,000,000,000)*	*(3,000,000,000)*	
Distribution by organizational component:			
Army	75,158,300,000	75,084,309,000	−73,991,000
Navy	94,162,900,000	95,083,488,000	+920,588,000
(By transfer)		*(1,420,800,000)*	*(+1,420,800,000)*
Air Force	95,041,300,000	92,540,893,000	−2,500,407,000
Defense Agencies/OSD	18,465,800,000	18,051,115,000	−414,685,000
(By transfer)		*(90,000,000)*	*(+90,000,000)*
Reserve and National Guard (procurement)		1,138,900,000	+1,138,900,000
Chemical Agents and Munitions Destruction, Defense	162,900,000	179,500,000	+16,600,000
Related agencies	168,245,000	664,145,000	+495,900,000
General provisions		−330,000,000	−330,000,000
Total, Department of Defense	283,159,445,000	282,412,350,000	−747,095,000
(By transfer)		*(1,510,800,000)*	*(+1,510,800,000)*
Total funding available	283,159,445,000	283,923,150,000	+763,705,000
(Transfer authority)	*(3,000,000,000)*	*(3,000,000,000)*	

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 1ST SESSION—Continued

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-462, APPROVED OCTOBER 1, 1988

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
TITLE I			
FISCAL YEAR 1989 APPROPRIATIONS			
FEDERAL FUNDS			
Federal payment to the District of Columbia	$430,500,000	$430,500,000	
Federal payment for water and sewer services	[1] 36,726,000	32,040,000	−$4,686,000
Federal contribution to retirement funds	52,070,000	52,070,000	
Transitional payment for Saint Elizabeths Hospital	20,000,000	20,000,000	
Federal payment for inaugural expenses	2,300,000	2,300,000	
Total, Federal funds to District of Columbia	541,596,000	536,910,000	−4,686,000
DISTRICT OF COLUMBIA FUNDS			
OPERATING EXPENSES			
Governmental direction and support	[2] *(118,439,000)*	*(118,439,000)*	
Economic development and regulation	*(144,616,000)*	*(144,616,000)*	
Public safety and justice	[3] *(735,528,000)*	*(734,207,000)*	*(−1,321,000)*
Public education system	*(623,424,000)*	*(623,924,000)*	*(+500,000)*
Human support services	*(744,901,000)*	*(744,901,000)*	
Public works	*(218,925,000)*	*(218,925,000)*	
Washington Convention Center Fund		*(7,274,000)*	*(+7,274,000)*
Repayment of loans and interest		*(235,796,000)*	*(+235,796,000)*
Repayment of general fund deficit		[4] *(1,000,000)*	*(+1,000,000)*
Short-term borrowings		*(4,570,000)*	*(+4,570,000)*
Optical and dental benefits		*(2,569,000)*	*(+2,569,000)*
Inaugural expenses	[5] *(2,300,000)*	*(2,300,000)*	
Energy adjustment		*(−2,070,000)*	*(−2,070,000)*
Personal services adjustment		*(−2,747,000)*	*(−2,747,000)*
Financing and other uses	*(246,392,000)*		*(−246,392,000)*
Total, operating expenses, general fund	*(2,834,525,000)*	*(2,833,704,000)*	*(−821,000)*
CAPITAL OUTLAY			
General fund	*(138,336,000)*	*(138,336,000)*	
ENTERPRISE FUNDS			
Water and Sewer Enterprise Fund:			
Operating expenses	*(200,805,000)*	*(200,805,000)*	
Capital outlay	*(24,200,000)*	*(24,200,000)*	
Total, water and sewer enterprise fund	*(225,005,000)*	*(225,005,000)*	
Lottery and Charitable Games Enterprise Fund	*(8,050,000)*	*(8,050,000)*	
Cable Television Enterprise Fund	*(1,000,000)*	*(1,000,000)*	
Total, enterprise funds	*(234,055,000)*	*(234,055,000)*	
Total, District of Columbia funds	*(3,206,916,000)*	*(3,206,095,000)*	*(−821,000)*
Total, title I, fiscal year 1989 appropriations:			
Federal funds to the District of Columbia	541,596,000	536,910,000	−4,686,000
District of Columbia funds	*(3,206,916,000)*	*(3,206,095,000)*	*(−821,000)*

See footnotes at end of table, p. 2301.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-371, APPROVED JULY 19, 1988

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
TITLE I—DEPARTMENT OF DEFENSE—CIVIL			
DEPARTMENT OF THE ARMY			
CORPS OF ENGINEERS—CIVIL			
General investigations	$129,271,000	$142,405,000	+$13,134,000
Construction, general	1,227,570,000	1,184,735,000	−42,835,000
Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee	334,297,000	337,980,000	+3,683,000
Operation and maintenance, general	1,372,894,000	1,370,714,000	−2,180,000
General Regulatory Functions	60,427,000	60,427,000	.....
Flood control and coastal emergencies	25,000,000	20,000,000	−5,000,000
Revolving Fund	35,174,000	.....	−35,174,000
General expenses	123,465,000	120,000,000	−3,465,000
Total, title I, Department of Defense—Civil, new budget *(obligational)* authority	3,308,098,000	3,236,261,000	−71,837,000
TITLE II—DEPARTMENT OF THE INTERIOR			
BUREAU OF RECLAMATION			
General investigations	12,286,000	14,250,000	+1,964,000
Construction program	698,236,000	712,305,000	+14,069,000
Operation and maintenance	183,231,000	187,731,000	+4,500,000
Loan program	19,022,000	26,022,000	+7,000,000
(Limitation on direct loans)	*(17,766,000)*	*(27,766,000)*	*(+10,000,000)*
General administrative expenses	50,313,000	48,313,000	−2,000,000
Emergency fund	1,000,000	1,000,000	.....
Working Capital fund	7,900,000	4,000,000	−3,900,000
Total, title II, Department of the Interior:			
New budget *(obligational)* authority	971,988,000	993,621,000	+21,633,000
(Limitation on direct loans)	*(17,766,000)*	*(27,766,000)*	*(+10,000,000)*
TITLE III—DEPARTMENT OF ENERGY			
Energy Supply, Research and Development Activities:			
Operating Expenses	1,732,118,000	1,828,394,000	+96,276,000
Plant and Capital Equipment	237,642,000	313,932,000	+76,290,000
Total	1,969,760,000	2,142,326,000	+172,566,000
Isotope production and distribution fund	16,243,000	.....	−16,243,000
Uranium Supply and Enrichment Activities:			
Operating Expenses	1,103,300,000	1,063,080,000	−40,220,000
Plant and Capital Equipment	80,700,000	70,000,000	−10,700,000
Subtotal	1,184,000,000	1,133,080,000	−50,920,000
Gross revenues	−1,276,000,000	−1,276,000,000	.....
Net appropriation	−92,000,000	−142,920,000	−50,920,000
General Science and Research Activities:			
Operating Expenses	266,254,000	714,916,000	+448,662,000
Plant and Capital Equipment	98,732,000	207,200,000	+108,468,000
Total	364,986,000	922,116,000	+557,130,000
Basic research user facilities	972,613,000	.....	−972,613,000
Nuclear Waste Disposal Fund	448,832,000	369,832,000	−79,000,000

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 1ST SESSION—Continued

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-462, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
TITLE II			
FISCAL YEAR 1988 SUPPLEMENTAL[6]			
DISTRICT OF COLUMBIA FUNDS			
OPERATING EXPENSES			
Governmental direction and support		(2,168,000)	(+2,168,000)
Rescissions	(−1,357,000)	(−3,525,000)	(−2,168,000)
Economic development and regulation		($143,000)	(+$143,000)
Rescissions	(−$15,636,000)	(−15,779,000)	(−143,000)
Public safety and justice	(33,251,000)	(33,253,000)	(+2,000)
Rescission		(−2,000)	(−2,000)
Public education system	(13,900,000)	(13,900,000)	
Rescission	(−1,114,000)	(−1,114,000)	
Human support services	(34,200,000)	(24,467,000)	(−9,733,000)
Rescission	(−18,311,000)	(−8,578,000)	(+9,733,000)
Public works	(8,835,000)	(2,783,000)	(−6,052,000)
Rescission	(−8,677,000)	(−2,625,000)	(+6,052,000)
Repayment of loans and interest	(3,469,000)		(−3,469,000)
Rescission	(−4,474,000)	(−1,005,000)	(+3,469,000)
Repayment of general fund deficit	(118,000)	(118,000)	
Optical and dental benefits	(1,080,000)	(1,080,000)	
Personal services	(34,377,000)	(34,150,000)	(−227,000)
Rescission	(−227,000)		(+227,000)
Adjustments (rescission)	(−911,000)	(−911,000)	
Total, operating expenses, general fund *(net)*	(78,523,000)	(78,523,000)	
CAPITAL OUTLAY			
General fund	(51,340,000)	(6,340,000)	(−45,000,000)
ENTERPRISE FUNDS			
Water and sewer enterprise fund:			
Operating expenses	(39,750,000)	(39,750,000)	
Capital outlay	(10,500,000)	(10,500,000)	
Total, Water and sewer enterprise fund	(50,250,000)	(50,250,000)	
Lottery and charitable games enterprise fund	(764,000)	(764,000)	
Total, Enterprise funds	(51,014,000)	(51,014,000)	
Total, title II, fiscal year 1988 supplemental:			
District of Columbia funds *(net)*	[6](180,877,000)	(135,877,000)	(−45,000,000)
Appropriations	(231,584,000)	(169,416,000)	(−62,168,000)
Rescissions	(−50,707,000)	(−33,539,000)	(+17,168,000)
Grand total:			
Federal funds to the District of Columbia	541,596,000	536,910,000	−4,686,000
District of Columbia funds *(net)*	(3,387,793,000)	(3,341,972,000)	(−45,821,000)
Appropriations, fiscal year 1989	(3,206,916,000)	(3,206,095,000)	(−821,000)
Appropriations, fiscal year 1988 *(net)*	(180,877,000)	(135,877,000)	(−45,000,000)
Appropriations	(231,584,000)	(169,416,000)	(−62,168,000)
Rescissions	(−50,707,000)	(−33,539,000)	(+17,168,000)

[1] Submitted in President's Budget (H. Doc. 100-153, p. I-Z13) as a non-add item.
[2] Includes informal budget amendment of $46,000.
[3] Includes informal budget amendment of $5,454,000.
[4] In addition, in FY 1989, $19,000,000 to be derived from amounts otherwise available including amounts appropriated in the accompanying bill or revenue otherwise available, or both.
[5] Informal budget amount.
[6] Submitted in H. Doc. 100-188 and H. Doc. 100-223.

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VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-371, APPROVED JULY 19, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
Tennessee Valley Authority: Tennessee Valley Authority Fund	$75,973,000	$103,000,000	+$27,027,000
Total, title IV, Independent agencies, new budget *(obligational)* authority	279,395,000	446,001,000	+166,606,000
Grand total:			
New budget *(obligational)* authority	16,868,547,000	16,555,995,000	−312,552,000
(Limitation on direct loans)	*(17,766,000)*	*(27,766,000)*	*(+10,000,000)*
(Limitation of guaranteed loans)		*(500,000,000)*	*(+500,000,000)*

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 1ST SESSION—Continued

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-461, APPROVED OCTOBER 1, 1988

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
TITLE I—MULTILATERAL ECONOMIC ASSISTANCE			
FUNDS APPROPRIATED TO THE PRESIDENT			
INTERNATIONAL FINANCIAL INSTITUTIONS [1]			
WORLD BANK GROUP			
Contribution to the International Bank for Reconstruction and Development:			
Annual contribution	$70,915,283	$50,000,795	−$20,914,488
(Limitation on callable capital)	*(2,292,927,540)*	*(2,292,972,540)*	*(+45,000)*
Total, contribution to the International Bank for Reconstruction and Development	*(2,363,842,823)*	*(2,342,973,335)*	*(−20,869,488)*
Contribution to the International Development Association:			
Arrearage		43,333,334	+43,333,334
Annual contribution	958,333,333	951,666,666	−6,666,667
Total, contribution to the International Development Association	958,333,333	995,000,000	+36,666,667
Contribution to the International Finance Corporation *(arrearage)*	35,032,000	4,891,528	−30,140,472
Total, contribution to the World Bank Group	*(3,357,208,156)*	*(3,342,864,863)*	*(−14,343,293)*
Contribution to the Asian Development Fund:			
Arrearage		100,000,000	+100,000,000
Annual contribution	146,070,000	52,392,036	−93,677,964
Total, contribution to the Asian Development Fund	146,070,000	152,392,036	+6,322,036
Contribution to the African Development Fund	105,000,000	105,000,000	
Contribution to the African Development Bank:			
Annual contribution	8,999,371	7,345,371	−1,654,000
(Limitation on callable capital)	*(135,062,946)*	*(135,062,946)*	
Total, contribution to the African Development Bank	*(144,062,317)*	*(142,408,317)*	*(−1,654,000)*
Total, contribution to International Financial Institutions	*(3,752,340,473)*	*(3,742,665,216)*	*(−9,675,257)*
Budget authority	1,324,349,987	1,314,629,730	−9,720,257
(Limitation on callable capital)	*(2,427,990,486)*	*(2,428,035,486)*	*(+45,000)*
DEPARTMENT OF STATE			
International organizations and programs	200,000,000	226,115,000	+26,115,000
Total, title I, Multilateral Economic Assistance	*(3,952,340,473)*	*(3,968,780,216)*	*(+16,439,743)*
Budget authority	1,524,349,987	1,540,744,730	+16,394,743
(Limitation on callable capital)	*(2,427,990,486)*	*(2,428,035,486)*	*(+45,000)*

See footnotes at end of table, p. 2308.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 1ST SESSION—Continued

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-461, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
TITLE II—BILATERAL ECONOMIC ASSISTANCE			
FUNDS APPROPRIATED TO THE PRESIDENT			
AGENCY FOR INTERNATIONAL DEVELOPMENT			
Agriculture, rural development, and nutrition, development assistance	$461,062,000	$493,715,000	+$32,653,000
Population, development assistance	190,440,000	197,940,000	+7,500,000
Health, development assistance	114,000,000	122,459,000	+8,459,000
International AIDS prevention and control program	30,000,000	40,000,000	+10,000,000
Child Survival Fund	66,000,000	71,000,000	+5,000,000
Education and human resources development, development assistance	129,541,000	129,541,000	
Private sector, environment, and energy, development assistance	127,795,000	120,709,000	−7,086,000
Science and technology, development assistance	8,662,000	8,662,270	+270
Sub-Saharan Africa, development assistance	510,000,000	500,000,000	−10,000,000
Southern Africa development assistance		50,000,000	+50,000,000
Private sector revolving fund:			
(By transfer)	*(8,500,000)*	*(9,000,000)*	*(+500,000)*
(Limitation on direct loans)	*(5,000,000)*	*(12,000,000)*	*(+7,000,000)*
(Limitation on guaranteed loans)	*(100,000,000)*	*(50,000,000)*	*(−50,000,000)*
Reappropriation *(deobligation/reobligation)* authority	[2] 12,500,000	[2] 12,500,000	
Total, development assistance	1,650,000,000	1,746,526,270	+96,526,270
American schools and hospitals abroad	30,000,000	35,000,000	+5,000,000
International disaster assistance	25,000,000	25,000,000	
Payment to the Foreign Service Retirement and Disability Fund	40,532,000	40,532,000	
Operating expenses of the Agency for International Development	414,000,000	414,000,000	
Operating expenses of the Agency for International Development Office of the Inspector General	23,119,000	28,500,000	+5,381,000
Housing and other credit guaranty programs:			
(Limitation on guaranteed loans)	*(100,000,000)*	*(125,000,000)*	*(+25,000,000)*
Guarantee reserve, indefinite borrowing authority	22,000,000	22,000,000	
Subtotal, Agency for International Development	2,204,651,000	2,311,558,270	+106,907,270
Economic support fund	3,268,500,000	3,258,500,000	−10,000,000
Reappropriation *(deobligation/reobligation)* authority	12,500,000		−12,500,000
Total, economic support fund	3,281,000,000	3,258,500,000	−22,500,000
Total, Agency for International Development	5,485,651,000	5,570,058,270	+84,407,270
INDEPENDENT AGENCIES			
AFRICAN DEVELOPMENT FOUNDATION			
Appropriations	7,140,000	8,000,000	+860,000
INTER-AMERICAN FOUNDATION			
Appropriations	13,900,000	16,600,000	+2,700,000
OVERSEAS PRIVATE INVESTMENT CORPORATION			
(Limitation on direct loans)	*(17,250,000)*	*(23,000,000)*	*(+5,750,000)*
(Limitation on guaranteed loans)	*(175,000,000)*	*(175,000,000)*	
Total, Funds Appropriated to the President	5,506,691,000	5,594,658,270	+87,967,270

See footnotes at end of table, p. 2308.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 1ST SESSION—Continued

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-461, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
PEACE CORPS			
Appropriations	$150,000,000	$153,500,000	+$3,500,000
DEPARTMENT OF STATE			
International narcotics control	101,000,000	101,000,000	
Migration and refugee assistance	340,000,000	361,950,000	+21,950,000
United States Emergency Refugee and Migration Assistance Fund		50,000,000	+50,000,000
Anti-terrorism assistance	9,840,000	9,840,000	
Total, Department of State	450,840,000	522,790,000	+71,950,000
Total, title II, Biliateral Economic Assistance:			
New budget *(obligational)* authority	6,107,531,000	6,270,948,270	+163,417,270
Definite	(6,060,531,000)	(6,236,448,270)	(+175,917,270)
Indefinite	(22,000,000)	(22,000,000)	
Reappropriation	[2](25,000,000)	[2](12,500,000)	(−12,500,000)
(By transfer)	*(8,500,000)*	*(9,000,000)*	*(+500,000)*
(Limitation on direct loans)	*(22,250,000)*	*(35,000,000)*	*(+12,750,000)*
(Limitation on guaranteed loans)	*(375,000,000)*	*(350,000,000)*	*(−25,000,000)*
TITLE III—MILITARY ASSISTANCE			
FUNDS APPROPRIATED TO THE PRESIDENT			
Military Assistance	467,000,000	467,000,000	
International Military Education and Training	52,500,000	47,400,000	−5,100,000
Foreign Military Credit Sales: Direct credits and forgiven loans	4,460,000,000		−4,460,000,000
Foreign Military Financing Program:			
Grants		3,862,750,000	+3,862,750,000
Concessional loans		410,000,000	+410,000,000
Total, Foreign Military Financing Program		4,272,750,000	+4,272,750,000
Guarantee Reserve Fund *(indefinite)*	[3]939,500,000	939,500,000	
Special Defense Acquisition Fund *(limitation on obligations)*	*(350,000,000)*	*(236,865,000)*	*(−113,135,000)*
Peacekeeping operations	31,689,000	31,689,000	
Total, title III, Military Assistance:			
New budget *(obligational)* authority	5,950,689,000	5,758,339,000	−192,350,000
Definite	(5,011,189,000)	(4,818,839,000)	(−192,350,000)
Indefinite	(939,500,000)	(939,500,000)	
(Limitation on obligations)	*(350,000,000)*	*(236,865,000)*	*(−113,135,000)*
TITLE IV—EXPORT ASSISTANCE			
EXPORT-IMPORT BANK OF THE UNITED STATES			
Limitation of Program Activity:			
New budget *(obligational)* authority	[4]705,000,000	[4]695,000,000	−10,000,000
(Limitation on direct loans)	*(705,000,000)*	*(695,000,000)*	*(−10,000,000)*
(Limitation on guaranteed loans)	*(10,200,000,000)*	*(10,200,000,000)*	
(Limitation on administrative expenses)	*(21,800,000)*	*(20,390,000)*	*(−1,410,000)*
Total, Export-Import Bank of the United States:			
New budget *(obligational)* authority	705,000,000	695,000,000	−10,000,000
(Limitation on use of corporate funds)	*(10,926,800,000)*	*(10,915,390,000)*	*(−11,410,000)*

See footnotes at end of table, p. 2308.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-371, APPROVED JULY 19, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
Atomic Energy Defense Activites:			
Operating Expenses	$6,632,025,000	$6,660,925,000	+$28,900,000
Plant and Capital Equipment	1,467,975,000	1,439,075,000	−28,900,000
Total	8,100,000,000	8,100,000,000	
Departmental Administration:			
Operating Expenses	394,925,000	396,503,000	+1,578,000
Plant and Capital Equipment	7,162,000	7,162,000	
Subtotal	402,087,000	403,665,000	+1,578,000
Miscellaneous revenues	−224,273,000	−240,725,000	−16,452,000
Net appropriation	177,814,000	162,940,000	−14,874,000
POWER MARKETING ADMINISTRATIONS			
Operation and maintenance, Alaska Power Administration	3,159,000	3,159,000	
Operation and maintenance, Southeastern Power Administration	36,267,000	36,267,000	
Operation and maintenance, Southwestern Power Administration	15,389,000	15,389,000	
Construction, rehabilitation, operation and maintenance, Western Area Power Administration	295,928,000	270,928,000	−25,000,000
Total, Power Marketing Administrations	350,743,000	325,743,000	−25,000,000
FEDERAL ENERGY REGULATORY COMMISSION			
Salaries and expenses	106,760,000	108,760,000	+2,000,000
Revenues Applied	−106,760,000	−108,760,000	−2,000,000
GEOTHERMAL RESOURCES DEVELOPMENT FUND			
Geothermal loan guarantee and interest assistance program	75,000	75,000	
(Limitation of guaranteed loans)		*(500,000,000)*	*(+500,000,000)*
Total, title III, Department of Energy:			
New budget *(obligational)* authority	12,309,066,000	11,880,112,000	−428,954,000
(Limitation of guaranteed loans)		*(500,000,000)*	*(+500,000,000)*
TITLE IV—INDEPENDENT AGENCIES			
Appalachian Regional Commission: Appalachian regional development programs		110,700,000	+110,700,000
Delaware River Basin Commission:			
Salaries and expenses	205,000	205,000	
Contribution to Delaware River Basin Commission	263,000	263,000	
Total, Delaware River Basin Commission	468,000	468,000	
Interstate Commission on the Potomac River Basin: Contribution to Interstate Commission on the Potomac River Basin		379,000	+379,000
Nuclear Regulatory Commission:			
Salaries and expenses	450,000,000	420,000,000	−30,000,000
Revenues	−247,500,000	−189,000,000	+58,500,000
Total, Nuclear Regulatory Commission	202,500,000	231,000,000	+28,500,000
Susquehanna River Basin Commission:			
Salaries and expenses	192,000	192,000	
Contribution to Susquehanna River Basin Commission	262,000	262,000	
Total, Susquehanna River Basin Commission	454,000	454,000	

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 1ST SESSION—Continued

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-461, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
FUNDS APPROPRIATED TO THE PRESIDENT			
TRADE AND DEVELOPMENT PROGRAM			
Trade and development	$20,400,000	$25,000,000	+$4,600,000
AGENCY FOR INTERNATIONAL DEVELOPMENT			
Trade credit insurance program *(limitation on program activity)*	*(200,000,000)*	*(200,000,000)*	
Total, title IV, Export Assistance:			
New budget *(obligational)* authority	725,400,000	720,000,000	−5,400,000
(Limitation on direct loans)	*(705,000,000)*	*(695,000,000)*	*(−10,000,000)*
(Limitation on guaranteed loans)	*(10,200,000,000)*	*(10,200,000,000)*	
(Limitation on administrative expenses)	*(21,800,000)*	*(20,390,000)*	*(−1,410,000)*
(Limitation on program activity)	*(200,000,000)*	*(200,000,000)*	
Grand total:			
New budget *(obligational)* authority	14,307,969,987	14,290,032,000	−17,937,987
Definite	(13,321,469,987)	(13,316,032,000)	(−5,437,987)
Indefinite	(961,500,000)	(961,500,000)	
Reappropriation	[2](25,000,000)	[2](12,500,000)	(−12,500,000)
(By transfer)	*(8,500,000)*	*(9,000,000)*	*(+500,000)*
(Limitation on obligations)	*(350,000,000)*	*(236,865,000)*	*(−113,135,000)*
(Limitation on guaranteed loans)	*(10,575,000,000)*	*(10,550,000,000)*	*(−25,000,000)*
(Limitation on direct loans)	*(727,250,000)*	*(730,000,000)*	*(+2,750,000)*
(Limitation on callable capital)	*(2,427,990,486)*	*(2,428,035,486)*	*(+45,000)*
(Limitation on administrative expenses)	*(21,800,000)*	*(20,390,000)*	*(−1,410,000)*
(Limitation on program activity)	*(200,000,000)*	*(200,000,000)*	

[1] Accounts in this section are presented out of sequence with the bill language (pp. 155–157, volume I).

[2] Reappropriation amount is estimated.

[3] The President's budget requested $643,196,000 as authority to borrow (permanent indefinite). The Congress provided a current indefinite appropriation in lieu of the permanent borrowing authority. The current request of $939,500,000 was based on a reestimate by the Congressional Budget Office.

[4] Export-Import Bank budget authority is calculated as equal to the level of direct loans. Offsetting receipts are no longer included in setting the new budget authority level.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-404, APPROVED AUGUST 19, 1988

Agency and item	Estimates of new budget (obligational) authority, 1988 [1]	New budget (obligational) authority appropriated, 1988	Increase (+) or decrease (−), appropriations compared with estimates
TITLE I			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
HOUSING PROGRAMS			
Annual contributions for assisted housing	$6,886,765,000	$7,538,765,000	+$652,000,000
Rescission of assisted housing deobligations *(budget authority, indefinite)*	*(−303,500,000)*	[2] −303,500,000	[3] −303,500,000
Total, annual contributions for assisted housing *(net)*	6,886,765,000	7,235,265,000	+348,500,000
Rental rehabilitation grants	150,000,000	150,000,000	
Rental housing assistance:			
Rescission of contract authority, indefinite	*(−50,000,000)*	[2] −50,000,000	[3] −50,000,000
(Limitation on annual contract authority, indefinite)	*(−2,000,000)*	*(−2,000,000)*	
Housing for the elderly or handicapped fund:			
(Limitation on direct loans)	*(350,175,000)*	*(480,106,000)*	*(+129,931,000)*
Authority to borrow, indefinite	288,649,000	418,580,000	+129,931,000
Congregate services		5,400,000	+5,400,000
Payments for operation of low-income housing projects	1,517,508,000	1,617,508,000	+100,000,000
Housing counseling assistance		3,500,000	+3,500,000
Emergency shelter grants program		46,500,000	+46,500,000
Transitional and supportive housing demonstration program	75,000,000	80,000,000	+5,000,000
Interagency Council on the Homeless	1,200,000	1,100,000	−100,000
Federal Housing Administration Fund	237,720,000	237,720,000	
(Limitation on guaranteed loans)	*(75,000,000,000)*	*(96,000,000,000)*	*(+21,000,000,000)*
Temporary mortgage assistance payments *(limitation on direct loans)*	*(103,350,000)*	*(103,350,000)*	
Nonprofit sponsor assistance *(limitation on direct loans)*	*(630,000)*	*(960,000)*	*(+330,000)*
GOVERNMENT NATIONAL MORTGAGE ASSOCIATION			
Guarantees of mortgage-backed securities *(limitation on guaranteed loans)*	*(100,000,000,000)*	*(144,000,000,000)*	*(+44,000,000,000)*
Total, Housing Programs *(net)*	9,156,842,000	9,745,573,000	+588,731,000
COMMUNITY PLANNING AND DEVELOPMENT			
Community development grants	2,480,000,000	2,650,000,000	+170,000,000
(By transfer)	*(145,000,000)*	*(350,000,000)*	*(+205,000,000)*
(Limitation on guaranteed loans)		*(144,000,000)*	*(+144,000,000)*
Urban development action grants	−50,000,000		+50,000,000
Urban homesteading	12,000,000	13,200,000	+1,200,000
Total, Community Planning and Development	2,442,000,000	2,663,200,000	+221,200,000
POLICY DEVELOPMENT AND RESEARCH			
Research and technology	19,000,000	17,200,000	−1,800,000
FAIR HOUSING AND EQUAL OPPORTUNITY			
Fair housing assistance	5,000,000		−5,000,000
Fair housing initiatives	5,000,000		−5,000,000
Fair housing activities		10,000,000	+10,000,000
Total, Fair Housing and Equal Opportunity	10,000,000	10,000,000	

See footnotes at end of table, p. 2312.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-404, APPROVED AUGUST 19, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1988 [1]	New budget (obligational) authority appropriated, 1988	Increase (+) or decrease (−), appropriations compared with estimates
MANAGEMENT AND ADMINISTRATION			
Salaries and expenses	$337,843,000	$335,081,000	−$2,762,000
(By transfer, limitation on FHA corporate funds)	*(359,348,000)*	*(381,528,000)*	*(+22,180,000)*
Total, title I, Department of Housing and Urban Development:			
New budget *(obligational)* authority *(net)*	11,965,685,000	12,771,054,000	+805,369,000
Appropriations	(11,677,036,000)	(12,705,974,000)	(+1,028,938,000)
Authority to borrow	(288,649,000)	(418,580,000)	(+129,931,000)
Rescissions	*(−353,500,000)*	(−353,500,000)	[3](−353,500,000)
(By transfer)	*(145,000,000)*	*(350,000,000)*	*(+205,000,000)*
(Limitation on annual contract authority, indefinite)	*(−2,000,000)*	*(−2,000,000)*	
(Limitation on direct loans)	*(454,155,000)*	*(584,416,000)*	*(+130,261,000)*
(Limitation on guaranteed loans)	*(175,000,000,000)*	*(240,144,000,000)*	*(+65,144,000,000)*
(Limitation on corporate funds to be expended)	*(359,348,000)*	*(381,528,000)*	*(+22,180,000)*
TITLE II			
INDEPENDENT AGENCIES			
AMERICAN BATTLE MONUMENTS COMMISSION			
Salaries and expenses	15,085,000	15,085,000	
CONSUMER PRODUCT SAFETY COMMISSION			
Salaries and expenses	32,917,000	34,500,000	+1,583,000
DEPARTMENT OF DEFENSE—CIVIL			
CEMETERIAL EXPENSES, ARMY			
Salaries and expenses	13,195,000	13,195,000	
ENVIRONMENTAL PROTECTION AGENCY			
Salaries and expenses	800,000,000	804,000,000	+4,000,000
Research and development	197,000,000	202,500,000	+5,500,000
Abatement, control, and compliance	624,000,000	715,625,000	+91,625,000
Buildings and facilities	8,000,000	8,000,000	
Subtotal, operating programs	1,629,000,000	1,730,125,000	+101,125,000
Hazardous substance superfund	1,600,000,000	1,425,000,000	−175,000,000
(Limitation on administrative expenses)	*(190,000,000)*	*(190,000,000)*	
Leaking underground storage tank trust fund	50,000,000	50,000,000	
(Limitation on administrative expenses)	*(5,000,000)*	*(5,000,000)*	
Construction grants	1,500,000,000	1,950,000,000	+450,000,000
Total, Environmental Protection Agency	4,779,000,000	5,155,125,000	+376,125,000
EXECUTIVE OFFICE OF THE PRESIDENT			
Council on Environmental Quality and Office of Environmental Quality	870,000	850,000	−20,000
Office of Science and Technology Policy	1,787,000	1,587,000	−200,000
Total, Executive Office of the President	2,657,000	2,437,000	−220,000

See footnotes at end of table, p. 2312.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-404, APPROVED AUGUST 19, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1988 [1]	New budget (obligational) authority appropriated, 1988	Increase (+) or decrease (−), appropriations compared with estimates
FEDERAL EMERGENCY MANAGEMENT AGENCY			
Disaster relief	$200,000,000	$100,000,000	−$100,000,000
Salaries and expenses	135,602,000	137,274,000	+1,672,000
Emergency management planning and assistance	282,794,000	282,438,000	−356,000
Emergency food and shelter program	80,000,000	114,000,000	+34,000,000
Total, Federal Emergency Management Agency	698,396,000	633,712,000	−64,684,000
GENERAL SERVICES ADMINISTRATION			
Consumer Information Center	1,354,000	1,354,000	
(Limitation on administrative expenses)	*(1,736,000)*	*(1,736,000)*	
DEPARTMENT OF HEALTH AND HUMAN SERVICES			
Office of Consumer Affairs	1,708,000	1,708,000	
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION			
Research and development	4,446,700,000	4,191,700,000	−255,000,000
Rescission		−25,000,000	−25,000,000
Space flight, control and data communications	4,841,200,000	4,364,200,000	−477,000,000
Construction of facilities	285,100,000	290,100,000	+5,000,000
Science, space and technology education trust fund *(by transfer)*		*(15,000,000)*	*(+15,000,000)*
Research and program management	1,915,000,000	1,855,000,000	−60,000,000
Total, National Aeronautics and Space Administration *(net)*	11,488,000,000	10,676,000,000	−812,000,000
NATIONAL CREDIT UNION ADMINISTRATION			
Central liquidity facility:			
(Limitation on direct loans)	*(600,000,000)*	*(600,000,000)*	
(Limitation on administrative expenses, corporate funds)	*(880,000)*	*(880,000)*	
NATIONAL SCIENCE FOUNDATION			
Research and related activities	1,603,000,000	1,583,000,000	−20,000,000
Program development and management *(limitation on administrative expenses)*	*(95,550,000)*	*(90,550,000)*	*(−5,000,000)*
Science and Technology Centers	150,000,000		−150,000,000
United States Antarctic Program activities	141,000,000	131,000,000	−10,000,000
Science education activities	156,000,000	171,000,000	+15,000,000
Total, National Science Foundation	2,050,000,000	1,885,000,000	−165,000,000
NEIGHBORHOOD REINVESTMENT CORPORATION			
Payment to the Neighborhood Reinvestment Corporation	19,094,000	19,494,000	+400,000
SELECTIVE SERVICE SYSTEM			
Salaries and expenses	26,113,000	26,313,000	+200,000
VETERANS ADMINISTRATION			
Compensation and pensions	14,759,100,000	14,759,100,000	
Readjustment benefits	597,600,000	597,600,000	
Veterans insurance and indemnities	9,220,000	9,220,000	
Medical care	10,327,546,000	10,542,546,000	+215,000,000
Medical and prosthetic research	204,241,000	210,241,000	+6,000,000
Medical administration and miscellaneous operating expenses	47,909,000	47,909,000	

See footnotes at end of table, p. 2312.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-404, APPROVED AUGUST 19, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1988[1]	New budget (obligational) authority appropriated, 1988	Increase (+) or decrease (−), appropriations compared with estimates
General operating expenses	$771,316,000	$774,316,000	+$3,000,000
Construction, major projects	367,755,000	363,040,000	−4,715,000
Construction, minor projects	123,881,000	111,596,000	−12,285,000
(Limitation on administrative expenses)	*(42,731,000)*	*(41,731,000)*	*(−1,000,000)*
Parking garage revolving fund	9,000,000	26,000,000	+17,000,000
Grants for construction of State extended care facilities	42,000,000	42,000,000	.....
Grants to the Republic of the Philippines	500,000	500,000	.....
Grants for construction to State veterans cemeteries	9,000,000	9,000,000	.....
Direct loan revolving fund *(limitation on direct loans)*	*(1,000,000)*	*(1,000,000)*	.....
Loan guaranty revolving fund	658,000,000	658,000,000	.....
Total, Veterans Administration	27,927,068,000	28,151,068,000	+224,000,000
Total, title II, Independent Agencies:			
New budget *(obligational)* authority *(net)*	47,054,587,000	46,614,991,000	−439,596,000
Appropriations	(47,054,587,000)	(46,639,991,000)	(−414,596,000)
Rescission	.....	(−25,000,000)	(−25,000,000)
(By transfer)	.....	*(15,000,000)*	*(+15,000,000)*
(Limitation on administrative expenses)	*(335,017,000)*	*(329,017,000)*	*(−6,000,000)*
(Limitation on direct loans)	*(601,000,000)*	*(601,000,000)*	.....
(Limitation on corporate funds to be expended)	*(880,000)*	*(880,000)*	.....
TITLE III			
CORPORATIONS			
Federal Home Loan Bank Board:			
(Limitation on administrative expenses, corporate funds)	*(31,942,000)*	*(31,942,000)*	.....
Federal Savings and Loan Insurance Corporation, *(limitation on administrative expenses, corporate funds)*	*(1,667,000)*	*(1,667,000)*	.....
Total, title III, Corporations	*(33,609,000)*	*(33,609,000)*	.....
Grand total:			
New budget *(obligational)* authority *(net)*	59,020,272,000	59,386,045,000	+365,773,000
Appropriations	(58,731,623,000)	(59,345,965,000)	(+614,342,000)
Authority to borrow	(288,649,000)	(418,580,000)	(+129,931,000)
Rescissions	*(−353,500,000)*	(−378,500,000)	[3](−378,500,000)
(By transfer)	*(145,000,000)*	*(365,000,000)*	*(+220,000,000)*
(Limitation on administrative expenses)	*(335,017,000)*	*(329,017,000)*	*(−6,000,000)*
(Limitation on annual contract authority, indefinite)	*(−2,000,000)*	*(−2,000,000)*	.....
(Limitation on direct loans)	*(1,055,155,000)*	*(1,185,416,000)*	*(+130,261,000)*
(Limitation on guaranteed loans)	*(175,000,000,000)*	*(240,144,000,000)*	*(+65,144,000,000)*
(Limitation on corporate funds to be expended)	*(393,837,000)*	*(416,017,000)*	*(+22,180,000)*

[1] Includes the following budget amendments:
H. Doc. 100-214:
Veterans Administration:

Readjustment benefits	$8,400,000
Veterans insurance and indemnities	4,250,000
Medical care	19,731,000
General operating expenses	−9,497,000
Burial benefits and miscellaneous assistance	−3,253,000
Total, budget amendments *(net)*	19,631,000

[2] Indefinite amount; estimated.
[3] Reflects actual rescission rather than comparison with request.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-446, APPROVED SEPTEMBER 27, 1988

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
TITLE I—DEPARTMENT OF THE INTERIOR			
BUREAU OF LAND MANAGEMENT			
Management of lands and resources	$464,487,000	$508,462,000	+$43,975,000
Construction and access	1,338,000	[1] 5,431,000	+4,093,000
Payments in lieu of taxes	105,000,000	105,000,000	
Land acquisition	100,000	12,290,000	+12,190,000
Oregon and California grant lands	57,434,000	60,000,000	+2,566,000
Range improvements *(indefinite)*	8,506,000	8,506,000	
Service charges, deposits, and forfeitures *(indefinite)*	6,000,000	6,000,000	
Miscellaneous trust funds *(indefinite)*	100,000	100,000	
Total, Bureau of Land Management	642,965,000	705,789,000	+62,824,000
UNITED STATES FISH AND WILDLIFE SERVICE			
Resource management	331,863,000	360,688,000	+28,825,000
Construction and anadromous fish	7,577,000	31,834,000	+24,257,000
Land acquisition	1,874,000	57,529,000	+55,655,000
National Wildlife Refuge Fund	5,645,000	6,645,000	+1,000,000
Total, United States Fish and Wildlife Service	346,959,000	456,696,000	+109,737,000
NATIONAL PARK SERVICE			
Operation of the national park system	733,768,000	744,835,000	+11,067,000
National recreation and preservation	10,204,000	14,608,000	+4,404,000
Historic preservation fund		30,500,000	+30,500,000
Construction	15,003,000	159,108,000	+144,105,000
(Liquidation of contract authority)	*(31,000,000)*	*(47,000,000)*	*(+16,000,000)*
Land and water conservation fund *(rescission of contract authority)*		−30,000,000	−30,000,000
Land acquisition and state assistance	15,779,000	72,609,000	+56,830,000
John F. Kennedy Center for the Performing Arts	5,193,000	5,181,000	−12,000
Illinois and Michigan Canal National Heritage Corridor Commission		250,000	+250,000
American Revolution Bicentennial Administration		4,765,000	+4,765,000
National Film Preservation Board		250,000	+250,000
Total, National Park Service *(net)*	779,947,000	1,002,106,000	+222,159,000
GEOLOGICAL SURVEY			
Surveys, investigations, and research	425,003,000	451,506,000	+26,503,000
MINERALS MANAGEMENT SERVICE			
Leasing and royalty management	171,317,000	170,744,000	−573,000
Payments to States from receipts under Mineral Leasing	600,000		−600,000
Total, Minerals Management Service	171,917,000	170,744,000	−1,173,000
BUREAU OF MINES			
Mines and minerals	126,605,000	159,292,000	+32,687,000
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT			
Regulation and technology	101,066,000	101,095,000	+29,000
Abandoned mine reclamation fund *(definite, trust fund)*	159,094,000	193,160,000	+34,066,000
Total, Office of Surface Mining Reclamation and Enforcement	260,160,000	294,255,000	+34,095,000

See footnotes at end of table, p. 2317.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-446, APPROVED SEPTEMBER 27, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
BUREAU OF INDIAN AFFAIRS			
Operation of Indian Programs	$938,416,000	$992,767,000	+$54,351,000
Construction	56,793,000	79,283,000	+22,490,000
Miscellaneous payments to Indians	13,955,000	13,952,000	−3,000
Revolving fund for loans *(limitation on direct loans)*	*(13,000,000)*		*(−13,000,000)*
Indian loan guaranty and insurance fund	3,370,000	3,370,000	
(Limitation on guaranteed loans)	*(45,000,000)*		*(−45,000,000)*
Total, Bureau of Indian Affairs	1,012,534,000	1,089,372,000	+76,838,000
TERRITORIAL AND INTERNATIONAL AFFAIRS			
Administration of territories	71,477,000	92,767,000	+21,290,000
Trust Territory of the Pacific Islands	2,780,000	28,434,000	+25,654,000
Compact of Free Association	34,935,000	32,360,000	−2,575,000
Total, Territorial Affairs	109,192,000	153,561,000	+44,369,000
DEPARTMENTAL OFFICES			
Office of the Secretary	51,681,000	49,067,000	−2,614,000
Office of the Solicitor	25,325,000	24,686,000	−639,000
Office of Inspector General	18,816,000	18,749,000	−67,000
Construction Management	1,800,000	1,800,000	
Total, Departmental Offices	97,622,000	94,302,000	−3,320,000
Total, title I, Department of the Interior:			
New budget *(obligational)* authority *(net)*	3,972,904,000	4,577,623,000	+604,719,000
Appropriations	(3,972,904,000)	(4,607,623,000)	(+634,719,000)
Definite	(3,958,298,000)	(4,593,017,000)	(+634,719,000)
Indefinite	(14,606,000)	(14,606,000)	
Rescission		(−30,000,000)	(−30,000,000)
(Liquidation of contract authority)	*(31,000,000)*	*(47,000,000)*	*(+16,000,000)*
(Limitation on direct loans)	*(13,000,000)*		*(−13,000,000)*
(Limitation on guaranteed loans)	*(45,000,000)*		*(−45,000,000)*
TITLE II—RELATED AGENCIES			
DEPARTMENT OF AGRICULTURE			
FOREST SERVICE			
Forest research	129,279,000	137,867,000	+8,588,000
State and private forestry	34,781,000	86,668,000	+51,887,000
National forest system	1,159,655,000	1,329,488,000	+169,833,000
Construction	203,974,000	225,518,000	+21,544,000
Timber receipts transfer to general fund *(indefinite)*	*(−79,100,000)*	*(−79,100,000)*	
Timber purchaser credits	*(125,367,000)*	*(75,000,000)*	*(−50,367,000)*
Mount St. Helens *(contract authority)*		*(5,333,000)*	*(+5,333,000)*
Land acquisition *(liquidation of contract authority)*	3,900,000	64,205,000	+60,305,000
Tongass Timber Supply Fund	40,699,000	35,999,000	−4,700,000
Timber Roads, Purchaser Election, Forest Service *(rescission)*		−40,000,000	−40,000,000
Operation and maintenance of recreation facilities	31,800,000		−31,800,000
Acquisition of lands for national forests, special acts	966,000	966,000	
Acquisition of lands to complete land exchanges *(indefinite)*	335,000	335,000	
Range betterment fund *(indefinite)*	3,875,000	3,875,000	
Miscellaneous trust funds	90,000	90,000	
Total, Forest Service *(net)*	1,609,354,000	1,845,011,000	+235,657,000

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-446, APPROVED SEPTEMBER 27, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
DEPARTMENT OF ENERGY			
Clean coal technology:			
Procurement #3, advance appropriation, fiscal year 1990	$575,000,000	$575,000,000	.....
Procurement #4, advance appropriation, fiscal year 1991	600,000,000	.....	−$600,000,000
Procurement #5, advance appropriation, fiscal year 1992	600,000,000	.....	−600,000,000
Procurement #2, appropriations, fiscal year 1989	525,000,000	190,000,000	−335,000,000
Procurement #2, advance appropriation, fiscal year 1990	.....	135,000,000	+135,000,000
Procurement #2, advance appropriation, fiscal year 1991	.....	200,000,000	+200,000,000
Subtotal, clean coal technology	2,300,000,000	1,100,000,000	−1,200,000,000
Fossil energy research and development	166,992,000	380,595,000	+213,603,000
Naval petroleum and oil shale reserves	185,071,000	185,071,000	.....
Energy conservation	89,359,000	372,502,000	+283,143,000
Economic regulation	20,772,000	21,372,000	+600,000
Emergency preparedness	6,154,000	6,154,000	.....
Strategic Petroleum Reserve	173,421,000	173,421,000	.....
SPR petroleum	333,555,000	242,000,000	−91,555,000
Advance appropriation, fiscal year 1990	.....	91,555,000	+91,555,000
Energy Information Administration	62,856,000	62,856,000	.....
Total, Department of Energy:			
New budget *(obligational)* authority	3,338,180,000	2,635,526,000	−702,654,000
Appropriations, fiscal year 1989	(1,563,180,000)	(1,633,971,000)	(+70,791,000)
Advance appropriations, fiscal year 1990	(575,000,000)	(801,555,000)	(+226,555,000)
Advance appropriations, fiscal year 1991	(600,000,000)	(200,000,000)	(−400,000,000)
Advance appropriation, fiscal year 1992	(600,000,000)	.....	(−600,000,000)
DEPARTMENT OF HEALTH AND HUMAN SERVICES			
INDIAN HEALTH SERVICE			
Indian health services	986,772,000	1,020,106,000	+33,334,000
Advance appropriation, fiscal year 1990	1,003,007,000	.....	−1,003,007,000
Indian health facilities	.....	61,668,000	+61,668,000
Total, Indian Health Service:			
New budget *(obligational)* authority	1,989,779,000	1,081,774,000	−908,005,000
Appropriations, fiscal year 1989	(986,772,000)	(1,081,774,000)	(+95,002,000)
Advance appropriation, fiscal year 1990	(1,003,007,000)	.....	(−1,003,007,000)
DEPARTMENT OF EDUCATION			
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION			
Indian education	67,653,000	71,553,000	+3,900,000
OTHER RELATED AGENCIES			
NAVAJO AND HOPI INDIAN RELOCATION COMMISSION			
Salaries and expenses	22,973,000	27,373,000	+4,400,000
INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT			
Salaries and expenses	2,467,000	3,094,000	+627,000
SMITHSONIAN INSTITUTION			
Salaries and expenses	216,214,000	211,240,000	−4,974,000
Construction and improvements, National Zoological Park	5,305,000	5,305,000	.....
Restoration and renovation of buildings	20,835,000	20,735,000	−100,000
Construction	10,150,000	8,655,000	−1,495,000
Total, Smithsonian Institution	252,504,000	245,935,000	−6,569,000

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-446, APPROVED SEPTEMBER 27, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
NATIONAL GALLERY OF ART			
Salaries and expenses	$38,543,000	$37,981,000	−$562,000
Repair, restoration and renovation of buildings	1,000,000	750,000	−250,000
Total, National Gallery of Art	39,543,000	38,731,000	−812,000
WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS			
Salaries and expenses	4,285,000	4,240,000	−45,000
Endowment Challenge Fund	350,000	300,000	−50,000
Total, Woodrow Wilson International Center for Scholars	4,635,000	4,540,000	−95,000
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES			
NATIONAL ENDOWMENT FOR THE ARTS			
Grants and administration	140,531,000	141,890,000	+1,359,000
Matching grants	27,200,000	27,200,000	
Total, National Endowment for the Arts	167,731,000	169,090,000	+1,359,000
NATIONAL ENDOWMENT FOR THE HUMANITIES			
Grants and administration	111,735,000	124,300,000	+12,565,000
Matching grants	28,700,000	28,700,000	
Total, National Endowment for the Humanities	140,435,000	153,000,000	+12,565,000
INSTITUTE OF MUSEUM SERVICES			
Grants and administration	21,944,000	22,270,000	+326,000
Total, National Foundation on the Arts and the Humanities	330,110,000	344,360,000	+14,250,000
COMMISSION OF FINE ARTS			
Salaries and expenses	451,000	475,000	+24,000
NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS			
Grants		5,000,000	+5,000,000
ADVISORY COUNCIL ON HISTORIC PRESERVATION			
Salaries and expenses	1,781,000	1,778,000	−3,000
NATIONAL CAPITAL PLANNING COMMISSION			
Salaries and expenses	2,962,000	2,962,000	
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION			
Salaries and expenses	28,000	28,000	
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION			
Salaries and expenses	2,353,000	2,334,000	−19,000
Public development	3,095,000	3,175,000	+80,000
Total, Pennsylvania Avenue Development Corporation	5,448,000	5,509,000	+61,000

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-436, APPROVED SEPTEMBER 20, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
Total, title I, Department of Labor:			
New budget *(obligational)* authority	$6,989,812,000	$6,462,681,000	−$527,131,000
Definite	(6,989,056,000)	(6,461,925,000)	(−527,131,000)
Indefinite	(756,000)	(756,000)	
(Limitation on trust fund transfers)	*(2,668,274,000)*	*(2,761,552,000)*	*(+93,278,000)*
TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES			
HEALTH RESOURCES AND SERVICES ADMINISTRATION			
Health resources and services: Program operations	[4,5]1,408,073,000	1,612,993,000	+204,920,000
(Limitation on direct loans)	*(500,000)*	*(494,000)*	*(−6,000)*
Medical facilities guarantee and loan fund: Federal interest subsidies for medical facilities	21,600,000	21,600,000	
Health care improvement	15,000,000		−15,000,000
Total, Health Resources and Services Administration	1,444,673,000	1,634,593,000	+189,920,000
CENTERS FOR DISEASE CONTROL			
Disease control, research, and training	[4]923,865,000	981,905,000	+58,040,000
NATIONAL INSTITUTES OF HEALTH			
National Cancer Institute	1,593,536,000	1,574,414,000	−19,122,000
National Heart, Lung, and Blood Institute	1,054,503,000	1,046,592,000	−7,911,000
National Institute of Dental Research	130,683,000	130,988,000	+305,000
National Institute of Diabetes, and Digestive and Kidney Diseases	565,908,000	560,352,000	−5,556,000
National Institute of Neurological and Communicative Disorders and Stroke	570,978,000	567,090,000	−3,888,000
National Institute of Allergy and Infectious Diseases	745,352,000	745,035,000	−317,000
National Institute of General Medical Sciences	687,828,000	682,365,000	−5,463,000
National Institute of Child Health and Human Development	418,388,000	426,212,000	+7,824,000
National Eye Institute	233,968,000	231,408,000	−2,560,000
National Institute of Environmental Health Sciences	223,168,000	223,454,000	+286,000
National Institute on Aging	205,222,000	222,871,000	+17,649,000
National Institute of Arthritis and Musculoskeletal and Skin Diseases	158,931,000	159,988,000	+1,057,000
Research resources	357,987,000	358,631,000	+644,000
National Center for Nursing Research	25,107,000	29,146,000	+4,039,000
John E. Fogarty International Center	16,074,000	15,881,000	−193,000
National Library of Medicine	70,626,000	73,731,000	+3,105,000
Office of the Director	59,578,000	72,201,000	+12,623,000
Buildings and facilities	5,000,000	38,532,000	+33,532,000
Subtotal, National Institutes of Health	7,122,837,000	7,158,891,000	+36,054,000
Reduction for procurement reforms (sec. 215)		−6,684,000	−6,684,000
Total, National Institutes of Health	7,122,837,000	7,152,207,000	+29,370,000
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION			
Alcohol, drug abuse, and mental health	[4]1,504,413,000	1,562,712,000	+58,299,000
Federal subsidy for Saint Elizabeths Hospital	24,000,000	23,712,000	−288,000
Total, Alcohol, Drug Abuse, and Mental Health Administration	1,528,413,000	1,586,424,000	+58,011,000

See footnotes at end of table, p. 2323.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-436, APPROVED SEPTEMBER 20, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
OFFICE OF ASSISTANT SECRETARY FOR HEALTH			
Public Health Service management	[4,5]$82,789,000	$69,325,000	−$13,464,000
(Limitation on trust fund transfer)	*(1,050,000)*	*(6,916,000)*	*(+5,866,000)*
Retirement pay and medical benefits for commissioned officers *(indefinite)*	107,687,000	102,687,000	−5,000,000
Vaccine Injury Compensation Trust Fund *(limitation on trust fund expenses)*		*(80,000,000)*	*(+80,000,000)*
Total, Assistant Secretary for Health	190,476,000	172,012,000	−18,464,000
Total, Public Health Service:			
New budget *(obligational)* authority	11,210,264,000	11,527,141,000	+316,877,000
Definite	(11,102,577,000)	(11,424,454,000)	(+321,877,000)
Indefinite	(107,687,000)	(102,687,000)	(−5,000,000)
(Limitation on direct loans)	*(500,000)*	*(494,000)*	*(−6,000)*
(Limitation on trust fund expenses)		*(80,000,000)*	*(+80,000,000)*
(Limitation on trust fund transfer)	*(1,050,000)*	*(6,916,000)*	*(+5,866,000)*
HEALTH CARE FINANCING ADMINISTRATION [6]			
Grants to States for Medicaid	32,732,589,000	34,236,000,000	+1,503,411,000
Appropriation available from prior year advance	−8,000,000,000	−8,000,000,000	
Total, adjusted appropriation	24,732,589,000	26,236,000,000	+1,503,411,000
New advance, biennial budget, fiscal year 1990	[7]9,000,000,000	9,000,000,000	
Total, grants to States for Medicaid	33,732,589,000	35,236,000,000	+1,503,411,000
Payments to health care trust funds	32,100,000,000	31,227,000,000	−873,000,000
Program management	95,246,000	93,284,000	−1,962,000
(Limitation on trust fund transfer)	*(1,775,556,000)*	*(1,803,317,000)*	*(+27,761,000)*
Total, Health Care Financing Administration:			
New budget *(obligational)* authority	65,927,835,000	66,556,284,000	+628,449,000
Appropriations, fiscal year 1989	(56,927,835,000)	(57,556,284,000)	(+628,449,000)
Advance appropriation, fiscal year 1990	(9,000,000,000)	(9,000,000,000)	
(Limitation on trust fund transfer)	*(1,775,556,000)*	*(1,803,317,000)*	*(+27,761,000)*
SOCIAL SECURITY ADMINISTRATION [6]			
Payments to social security trust funds	93,631,000	93,631,000	
Special benefits for disabled coal miners:			
Direct appropriation	878,581,000	878,581,000	
Appropriation available from prior year advance	−250,000,000	−250,000,000	
Total, fiscal year 1988 appropriation current request	628,581,000	628,581,000	
New advance, biennial budget, fiscal year 1990	[7]211,000,000	211,000,000	
Total, special benefits for disabled coal miners	839,581,000	839,581,000	
Supplemental security income program:			
Direct appropriation	12,473,953,000	12,473,953,000	
Appropriation available from prior year advance	−3,000,000,000	−3,000,000,000	
Total, fiscal year 1989 appropriation current request	9,473,953,000	9,473,953,000	
New advance, biennial budget, fiscal year 1990	[7]2,936,000,000	2,936,000,000	
Total, supplemental security income program	12,409,953,000	12,409,953,000	
Limitation on administrative expenses: Trust funds	*(3,775,661,000)*	*(3,750,113,000)*	*(−25,548,000)*

See footnotes at end of table, p. 2323.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-446, APPROVED SEPTEMBER 27, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
UNITED STATES HOLOCAUST MEMORIAL COUNCIL			
Holocaust Memorial Council	$2,209,000	$2,244,000	+$35,000
Total, title II, Related Agencies:			
New budget *(obligational)* authority *(net)*	7,670,077,000	6,315,893,000	−1,354,184,000
Appropriations, fiscal year 1989 *(net)*	(4,892,070,000)	(5,314,338,000)	(+422,268,000)
Appropriations	(4,892,070,000)	(5,354,338,000)	(+462,268,000)
Definite	(4,887,860,000)	(5,350,128,000)	(+462,268,000)
Indefinite	(4,210,009)	(4,210,000)	
Rescission		(−40,000,000)	(−40,000,000)
Advance appropriations, fiscal year 1990	(1,578,007,000)	(801,555,000)	(−776,452,000)
Advance appropriations, fiscal year 1991	(600,000,000)	(200,000,000)	(−400,000,000)
Advance appropriation, fiscal year 1992	(600,000,000)		(−600,000,000)
(Liquidation of contract authority)		*(5,333,000)*	*(+5,333,000)*
(Timber receipt transfer to general fund, indefinite)	*(−79,100,000)*	*(−79,100,000)*	
(Timber purchaser credits)	*(125,367,000)*	*(75,000,000)*	*(−50,367,000)*
Grand total:			
New budget *(obligational)* authority *(net)*	11,642,981,000	10,893,516,000	−749,465,000
Appropriations, fiscal year 1989 *(net)*	(8,864,974,000)	(9,891,961,000)	(+1,026,987,000)
Appropriations	(8,864,974,000)	(9,961,961,000)	(+1,096,987,000)
Definite	(8,846,158,000)	(9,943,145,000)	(+1,096,987,000)
Indefinite	(18,816,000)	(18,816,000)	
Rescissions		(−70,000,000)	(−70,000,000)
Advance appropriations, fiscal year 1990	(1,578,007,000)	(801,555,000)	(−776,452,000)
Advance appropriations, fiscal year 1991	(600,000,000)	(200,000,000)	(−400,000,000)
Advance appropriation, fiscal year 1992	(600,000,000)		(−600,000,000)
(Liquidation of contract authority)	*(31,000,000)*	*(52,333,000)*	*(+21,333,000)*
(Timber receipt transfer to general fund, indefinite)	*(−79,100,000)*	*(−79,100,000)*	
(Timber purchaser credits)	*(125,367,000)*	*(75,000,000)*	*(−50,367,000)*

[1] In addition, $5,500,000 is provided in the Department of Defense Appropriations Act, 1989 (P.L. 100-463, Title VIII, General Provisions, Sec. 8128) (see p. 100, this volume).

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-436, APPROVED SEPTEMBER 20, 1988

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
TITLE I—DEPARTMENT OF LABOR			
EMPLOYMENT AND TRAINING ADMINISTRATION			
Program administration	$72,289,000	$70,779,000	−$1,510,000
(Limitation on trust fund transfer)	*(46,607,000)*	*(48,320,000)*	*(+1,713,000)*
Training and employment services	3,430,824,000	[1] 3,785,687,000	+354,863,000
Community service employment for older Americans	336,000,000	343,824,000	+7,824,000
Worker readjustment	[1] 980,000,000		−980,000,000
Federal unemployment benefits and allowances		[1] 134,000,000	+134,000,000
State unemployment insurance and employment service operations	21,500,000	22,559,000	+1,059,000
(Limitation on trust fund transfer)	*(2,372,194,000)*	*(2,449,956,000)*	*(+77,762,000)*
Advances to the Unemployment Trust Fund and other funds	124,000,000	124,000,000	
Total, Employment and Training Administration	4,964,613,000	4,480,849,000	−483,764,000
LABOR-MANAGEMENT SERVICES			
Salaries and expenses	73,059,000	72,182,000	−877,000
PENSION BENEFIT GUARANTY CORPORATION			
Pension Benefit Guaranty Corporation fund *(limitation on trust funds)*	*(54,232,000)*	*(53,581,000)*	*(−651,000)*
EMPLOYMENT STANDARDS ADMINISTRATION			
Salaries and expenses	214,489,000	211,915,000	−2,574,000
(Limitation on trust fund transfer)	*(526,000)*	*(520,000)*	*(−6,000)*
Special benefits	[2] 292,000,000	255,000,000	−37,000,000
Black Lung Disability Trust Fund:			
Definite	[3] 688,214,000	690,757,000	+2,543,000
Indefinites	756,000	756,000	
Total, Black Lung Disability Trust Fund	688,970,000	691,513,000	+2,543,000
Total, Employment Standards Administration	1,195,459,000	1,158,428,000	−37,031,000
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION			
Salaries and expenses	244,851,000	244,546,000	−305,000
MINE SAFETY AND HEALTH ADMINISTRATION			
Salaries and expenses	164,597,000	162,621,000	−1,976,000
BUREAU OF LABOR STATISTICS			
Salaries and expenses	190,397,000	188,114,000	−2,283,000
(Limitation on trust fund transfer)	*(46,323,000)*	*(45,767,000)*	*(−556,000)*
DEPARTMENTAL MANAGEMENT			
Salaries and expenses	117,339,000	116,424,000	−915,000
(Limitation on trust fund transfer)	*(285,000)*	*(282,000)*	*(−3,000)*
Assistant Secretary for Veterans Employment and Training *(limitation on trust fund transfer)*	*(142,406,000)*	*(157,493,000)*	*(+15,087,000)*
Office of the Inspector General	39,497,000	39,517,000	+20,000
(Limitation on trust fund transfer)	*(5,701,000)*	*(5,633,000)*	*(−68,000)*
Total, Departmental Management	156,836,000	155,941,000	−895,000

See footnotes at end of table, p. 2321.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-436, APPROVED SEPTEMBER 20, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
Total, Social Security Administration:			
New budget *(obligational)* authority	$13,343,165,000	$13,343,165,000	
Appropriations, fiscal year 1989	(10,196,165,000)	(10,196,165,000)	
Advance appropriations, fiscal year 1990	(3,147,000,000)	(3,147,000,000)	
(Limitation on administrative expenses)	*(3,775,661,000)*	*(3,750,113,000)*	*(−$25,548,000)*
FAMILY SUPPORT ADMINISTRATION [6]			
Family support payments to States:			
Direct appropriation	10,723,137,000	10,704,337,000	−18,800,000
Appropriation available from prior year advance	−2,500,000,000	−2,500,000,000	
Total, fiscal year 1989 appropriation current request	8,223,137,000	8,204,337,000	−18,800,000
New advance, biennial budget, fiscal year 1990	[7] 2,644,000,000	2,700,000,000	+56,000,000
Total, family support payments	10,867,137,000	10,904,337,000	+37,200,000
Low income home energy assistance	1,187,000,000	1,383,200,000	+196,200,000
Refugee and entrant assistance	278,883,000	382,356,000	+103,473,000
Work incentives		91,440,000	+91,440,000
Community services block grant	310,000,000	377,598,000	+67,598,000
Program administration	79,533,000	81,474,000	+1,941,000
Total, Family Support Administration:			
New budget *(obligational)* authority	12,722,553,000	13,220,405,000	+497,852,000
Appropriations, fiscal year 1989	(10,078,553,000)	(10,520,405,000)	(+441,852,000)
Advance appropriation, fiscal year 1990	(2,644,000,000)	(2,700,000,000)	(+56,000,000)
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES			
Social Services Block Grant	2,700,000,000	2,700,000,000	
Human development services	2,456,868,000	2,543,910,000	+87,042,000
Payments to States for foster care and adoption assistance	[8] 1,074,907,000	1,119,907,000	+45,000,000
Total, Assistant Secretary for Human Development Services	6,231,775,000	6,363,817,000	+132,042,000
DEPARTMENTAL MANAGEMENT			
General departmental management	68,160,000	67,342,000	−818,000
(Limitation on trust fund transfer)	*(7,000,000)*	*(6,916,000)*	*(−84,000)*
Office of the Inspector General	46,430,000	45,873,000	−557,000
(Limitation on trust fund transfer)	*(40,000,000)*	*(39,520,000)*	*(−480,000)*
Office for Civil Rights	16,173,000	15,979,000	−194,000
(Limitation on trust fund transfer)	*(4,000,000)*	*(3,952,000)*	*(−48,000)*
Policy research	5,019,000	7,851,000	+2,832,000
Total, Departmental Management:			
New budget *(obligational)* authority	135,782,000	137,045,000	+1,263,000
(Limitation on trust fund transfer)	*(51,000,000)*	*(50,388,000)*	*(−612,000)*
Total, title II, Department of Health and Human Services:			
New budget *(obligational)* authority	109,571,374,000	111,147,857,000	+1,576,483,000
Appropriations, fiscal year 1989	(94,780,374,000)	(96,300,857,000)	(+1,520,483,000)
Definite	(94,672,687,000)	(96,198,170,000)	(+1,525,483,000)
Indefinite	(107,687,000)	(102,687,000)	(−5,000,000)
Advance appropriations, fiscal year 1990	(14,791,000,000)	(14,847,000,000)	(+56,000,000)
(Limitation on administrative expenses)	*(3,775,661,000)*	*(3,750,113,000)*	*(−25,548,000)*
(Limitation on direct loans)	*(500,000)*	*(494,000)*	*(−6,000)*
(Limitation on trust fund expenses)		*(80,000,000)*	*(+80,000,000)*
(Limitation on trust fund transfers)	*(1,827,606,000)*	*(1,860,621,000)*	*(+33,015,000)*

See footnotes at end of table, p. 2323.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-436, APPROVED SEPTEMBER 20, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
TITLE III—DEPARTMENT OF EDUCATION			
Compensatory education for the disadvantaged	[9]$4,566,084,000	$4,579,138,000	+$13,054,000
Impact aid	592,000,000	733,096,000	+141,096,000
School Improvement Programs	[9]1,126,835,000	1,109,599,000	−17,236,000
Bilingual, immigrant, and refugee education	[10]200,504,000	197,394,000	−3,110,000
Education for the handicapped	1,916,882,000	1,966,438,000	+49,556,000
Rehabilitation services and handicapped research	1,616,435,000	1,668,070,000	+51,635,000
Vocational and adult education	[9]1,031,095,000	1,073,466,000	+42,371,000
Student financial assistance	6,099,597,000	5,814,056,000	−285,541,000
Guaranteed student loans	2,735,598,000	3,174,400,000	+438,802,000
Higher education	450,195,000	563,856,000	+113,661,000
College housing and academic facilities:			
Borrowing authority		29,640,000	+29,640,000
Interest subsidies	1,675,000	1,655,000	−20,000
Total, College housing and academic facilities	1,675,000	31,295,000	+29,620,000
Educational research and statistics	[9]84,400,000	78,201,000	−6,199,000
Libraries	76,000,000	137,200,000	+61,200,000
SPECIAL INSTITUTIONS			
American Printing House for the Blind	[11]5,381,000	5,335,000	−46,000
National Technical Institute for the Deaf	[11]33,031,000	33,326,000	+295,000
Gallaudet University	[11]63,463,000	65,998,000	+2,535,000
Howard University	176,147,000	178,973,000	+2,826,000
Total, Special Institutions	278,022,000	283,632,000	+5,610,000
DEPARTMENTAL MANAGEMENT			
Program administration	249,849,000	255,497,000	+5,648,000
Office for Civil Rights	41,341,000	40,845,000	−496,000
Office of the Inspector General	17,911,000	18,179,000	+268,000
Total, Departmental management	309,101,000	314,521,000	+5,420,000
Total, title III, Department of Education, new budget *(obligational)* authority	21,084,423,000	21,724,362,000	+639,939,000
TITLE IV—RELATED AGENCIES			
Action: Operating expenses	165,991,000	168,420,000	+2,429,000
Corporation for Public Broadcasting:			
Public broadcasting fund *(advance appropriation fiscal year 1991)*	214,000,000	298,870,000	+84,870,000
Commission on Railroad Retirement Reform		988,000	+988,000
Federal Mediation and Conciliation Service	24,937,000	25,813,000	+876,000
Federal Mine Safety and Health Review Commission	4,079,000	4,030,000	−49,000
National Commission on Children		790,000	+790,000
National Commission to Prevent Infant Mortality		494,000	+494,000
National Commission on Libraries and Information Science	755,000	741,000	−14,000
National Commission on Migrant Education	[12]1,000,000	1,976,000	+976,000
National Commission on Responsibility for Financing Postsecondary Education		790,000	+790,000
National Council on the Handicapped	974,000	1,160,000	+186,000
National Labor Relations Board	138,647,000	136,983,000	−1,664,000
National Mediation Board	6,551,000	6,472,000	−79,000
Occupational Safety and Health Review Commission	6,002,000	5,845,000	−157,000
Physician Payment Review Commission *(trust funds)*	*(3,059,000)*	*(3,022,000)*	*(−37,000)*
Prospective Payment Assessment Commission *(trust funds)*	*(3,664,000)*	*(3,620,000)*	*(−44,000)*

See footnotes at end of table, p. 2323.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-436, APPROVED SEPTEMBER 20, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
Railroad Retirement Board:			
Dual benefits payments account	$336,185,000	$322,740,000	−$13,445,000
Federal payments to the Railroad Retirement Accounts	3,100,000	3,100,000	
(Limitation on administration, retirement)	*(58,012,000)*	*(59,626,000)*	*(+1,614,000)*
(Limitation on administration, unemployment)	*(13,678,000)*	*(13,783,000)*	*(+105,000)*
(Limitation on administration, review activity)	*(5,200,000)*	*(3,063,000)*	*(−2,137,000)*
Total, Railroad Retirement Board	339,285,000	325,840,000	−13,445,000
Soldiers' and Airmen's Home:			
Operation and maintenance *(trust funds)*	36,643,000	37,248,000	+605,000
Capital outlay *(trust funds)*	13,215,000	14,820,000	+1,605,000
Total, Soldiers' and Airmen's Home	49,858,000	52,068,000	+2,210,000
Unites States Bipartisan Commission on Comprehensive Health Care		1,033,000	+1,033,000
United States Institute of Peace	3,376,000	6,916,000	+3,540,000
Total, title IV, related agencies:			
New budget *(obligational)* authority	955,455,000	1,039,229,000	+83,774,000
Appropriations, fiscal year 1989	(741,455,000)	(740,359,000)	(−1,096,000)
Advance appropriation, fiscal year 1991	(214,000,000)	(298,870,000)	(+84,870,000)
(Limitation on administrative expenses)	*(76,890,000)*	*(76,472,000)*	*(−418,000)*
(Limitaion on trust fund transfers)	*(6,723,000)*	*(6,642,000)*	*(−81,000)*
Grand total:			
New budget *(obligational)* authority	138,601,064,000	140,374,129,000	+1,773,065,000
Appropriations, fiscal year 1989	(123,596,064,000)	(125,228,259,000)	(+1,632,195,000)
Definite	(123,487,621,000)	(125,124,816,000)	(+1,637,195,000)
Indefinite	(108,443,000)	(103,443,000)	(−5,000,000)
Advance appropriations, fiscal year 1990	(14,791,000,000)	(14,847,000,000)	(+56,000,000)
Advance appropriation, fiscal year 1991	(214,000,000)	(298,870,000)	(+84,870,000)
(Limitation on administrative expenses)	*(3,852,551,000)*	*(3,826,585,000)*	*(−25,966,000)*
(Limitation on direct loans)	*(500,000)*	*(494,000)*	*(−6,000)*
(Limitation on trust fund expenses)		*(80,000,000)*	*(+80,000,000)*
(Limitation on trust fund transfers)	*(4,502,603,000)*	*(4,628,815,000)*	*(+126,212,000)*

[1] FY 1989 budget proposed to replace FUBA, dislocated worker, and trade adjustment under Training and Employment Services with new worker readjustment account.

[2] FY 1989 request includes $35,000,000 to liquidate FY 1988 requirements financed through subsequent year borrowing.

[3] FY 1989 request includes $13,970,000 to liquidate FY 1988 requirements financed through subsequent year borrowing.

[4] President's budget proposed $1,234,580,000 for AIDS under a consolidated account within the Office of the Assistant Secretary for Health. This request was considered under the following accounts:

HRSA	$40,016,000
CDC	400,719,000
NIH	587,630,000
ADAMHA	177,617,000
OASH	28,598,000
Total	1,234,580,000

In addition, $65,420,000 was requested for the Food and Drug Administration and was considered in the Rural Development, Agriculture and Related Agencies Appropriations Act, 1989 (P.L. 100-460).

[5] President's budget requests $140,000,000 for family planning under the Public Health Services Management Account. Request considered under the Health Resources and Services Administration.

[6] Budget requests related to FY 1990 and FY 1991 biennial budget not considered (see table 8h).

[7] Funds requested in the budget for FY 1990 were for the entire fiscal year. Amounts shown are for the 1st quarter of FY 1990 and are based on estimates provided by the Department of Health and Human Services.

[8] The following amendment was submitted too late to be considered as part of H.R. 4783:

H. Doc 100-214: Family Social Services	$605,423,000

[9] Includes the following amounts transmitted as budget amendments after initial submission of the President's FY 1989 budget:

H. Doc. 100-201:	
Compensatory Education for the Disadvantaged	$4,566,084,000
School Improvement Programs	1,097,106,000
Vocational and Adult Education	150,000,000
Education Research and Statistics	3,400,000
Total	5,816,590,000

[10] $156,673,000 submitted in H. Doc. 100-201 for Bilingual and Immigrant Education was not considered. Amount of $185,295,000 proposed for later transmittal in the original President's budget was considered by the Committee.

[11] Request submitted under consolidated account, special institutions for the handicapped.

[12] Includes the following amount transmitted after initial submission of President's Budget:

H. Doc. 100-201: National Commission on Migrant Education	$1,000,000

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-458, APPROVED OCTOBER 1, 1988

Agency and item	Estimates of new budget (obligational) authority, 1989[1]	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
TITLE I—CONGRESSIONAL OPERATIONS			
SENATE			
MILEAGE OF THE VICE PRESIDENT AND SENATORS AND EXPENSE ALLOWANCES OF THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, MAJORITY AND MINORITY LEADERS, MAJORITY AND MINORITY WHIPS, AND CHAIRMEN OF THE MAJORITY AND MINORITY CONFERENCE COMMITTEES			
Mileage of the Vice President and Senators	$60,000	$60,000	
Expense allowances of the Vice President, the President Pro Tempore, Majority and Minority Leaders, Majority and Minority Whips, and Chairmen of the Majority and Minority Conference Committees:			
Vice President	10,000	10,000	
President Pro Tempore of the Senate	10,000	10,000	
Majority Leader of the Senate	10,000	10,000	
Minority Leader of the Senate	10,000	10,000	
Majority Whip of the Senate	5,000	5,000	
Minority Whip of the Senate	5,000	5,000	
Chairman of the Majority Conference Committee	3,000	3,000	
Chairman of the Minority Conference Committee	3,000	3,000	
Subtotal	56,000	56,000	
Representation allowances for the Majority and Minority Leaders	20,000	20,000	
Total, expense allowances	76,000	76,000	
Total, Vice President and Senators	136,000	136,000	
SALARIES, OFFICERS AND EMPLOYEES			
Office of the Vice President	1,168,000	1,168,000	
Office of the President Pro Tempore	156,000	156,000	
Office of the Deputy President Pro Tempore	92,000	23,000	−$69,000
Offices of the Majority and Minority Leaders	1,416,000	1,416,000	
Offices of the Majority and Minority Whips	440,000	440,000	
Conference committees	1,135,000	1,135,000	
Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority	279,000	279,000	
Office of the Chaplain	117,000	117,000	
Office of the Secretary	8,165,000	8,165,000	
Office of the Sergeant at Arms and Doorkeeper	50,253,000	24,987,000	−25,266,000
Offices of the Secretaries for the Majority and Minority	944,000	944,000	
Agency contributions	17,760,000	10,425,000	−7,335,000
Total, salaries, officers and employees	81,925,000	49,255,000	−32,670,000
OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE			
Salaries and expenses	2,265,000	1,799,000	−466,000
OFFICE OF SENATE LEGAL COUNSEL			
Salaries and expenses	657,000	646,000	−11,000
EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE			
Expenses allowances	12,000	12,000	

See footnotes at end of table, p. 2329.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-458, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989 [1]	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
CONTINGENT EXPENSES OF THE SENATE			
Senate policy committees	$2,203,000	$2,203,000	
Inquiries and investigations	62,673,000	62,673,000	
Expenses of United States Senate Caucus on International Narcotics Control	325,000	325,000	
Secretary of the Senate	727,200	727,200	
Sergeant at Arms and Doorkeeper of the Senate	65,643,000	[2] 65,643,000	
Miscellaneous items	6,180,000	6,180,000	
Senators' official personnel and office expense account	154,544,000	151,065,000	−$3,479,000
Stationery (revolving fund)	13,000	13,000	
Total, contingent expenses of the Senate	292,308,200	288,829,200	−3,479,000
Total, Senate	377,303,200	340,677,200	−36,626,000
HOUSE OF REPRESENTATIVES			
PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS [3]			
Gratuities, deceased Members		358,000	+358,000
MILEAGE OF MEMBERS			
Mileage of Members	210,000	210,000	
SALARIES AND EXPENSES			
HOUSE LEADERSHIP OFFICES			
Office of the Speaker	902,000	902,000	
Office of the Majority Floor Leader	828,000	828,000	
Office of the Minority Floor Leader	926,000	926,000	
Office of the Majority Whip	733,000	733,000	
Office of the Minority Whip	635,000	635,000	
Total, House leadership offices	4,024,000	4,024,000	
MEMBERS' CLERK HIRE			
Clerk hire	182,477,000	178,828,000	−3,649,000
COMMITTEE EMPLOYEES			
Professional and clerical employees of standing committees	71,770,000	51,067,000	−20,703,000
COMMITTEE ON THE BUDGET (STUDIES)			
Salaries and expenses	346,000	336,000	−10,000
CONTINGENT EXPENSES OF THE HOUSE			
STANDING COMMITTEES, SPECIAL AND SELECT			
Salaries and expenses	56,124,000	54,092,000	−2,032,000
ALLOWANCES AND EXPENSES			
Official Expenses of Members	86,376,000	82,068,000	−4,308,000
Supplies, materials, administrative costs and Federal tort claims	25,193,000	21,193,000	−4,000,000
Furniture and furnishings	1,265,000	1,265,000	
Stenographic reporting of committee hearings	800,000	800,000	
Reemployed annuitants reimbursements	1,380,000	1,380,000	
Government contributions	81,250,000	69,835,000	−11,415,000

See footnotes at end of table, p. 2329.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-458, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989 [1]	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
Miscellaneous items	$622,000	$622,000	
Total, allowances and expenses	196,886,000	177,163,000	−$19,723,000
Total, contingent expenses of the House	253,010,000	231,255,000	−21,755,000
COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)			
Salaries and expenses	4,522,000	4,429,000	−93,000
SALARIES, OFFICERS AND EMPLOYEES			
Office of the Clerk	16,205,000	15,905,000	−300,000
Office of the Sergeant at Arms	24,033,000	951,000	−23,082,000
Office of the Doorkeeper	8,245,000	7,525,000	−720,000
Office of the Postmaster	2,760,000	2,610,000	−150,000
Office of the Chaplain	78,000	78,000	
Office of the Parliamentarian	746,000	746,000	
Office of the Parliamentarian	(526,000)	(526,000)	
Compilation of precedents of the House of Representatives	(220,000)	(220,000)	
Office for the Bicentennial of the House of Representatives	261,000	261,000	
Office of the Law Revision Counsel of the House	969,000	954,000	−15,000
Office of the Legislative Counsel of the House	3,277,000	3,222,000	−55,000
Six minority employees	521,000	521,000	
House Democratic Steering Committee and Caucus	803,000	803,000	
House Democratic Steering Committee	(644,000)	(644,000)	
House Democratic Caucus	(159,000)	(159,000)	
House Republican Conference	803,000	803,000	
Other authorized employees	1,295,000	1,182,000	−113,000
Technical assistant, Office of the Attending Physician	(59,000)	(66,000)	(+7,000)
L.B.J. Interns and Former Speakers' staff	(1,134,000)	(1,014,000)	(−120,000)
Miscellaneous items	(102,000)	(102,000)	
Total, salaries, officers and employees	59,996,000	35,561,000	−24,435,000
Total, salaries and expenses	576,145,000	505,500,000	−70,645,000
Total, House of Representatives	576,355,000	506,068,000	−70,287,000
JOINT ITEMS			
JOINT COMMITTEES			
Joint Committee on Inaugural Ceremonies of 1989	700,000	775,000	+75,000
CONTINGENT EXPENSES OF THE SENATE			
Joint Economic Committee	3,430,000	3,330,000	−100,000
Joint Committee on Printing	1,199,000	1,143,000	−56,000
Total, contingent expenses of the Senate	4,629,000	4,473,000	−156,000
CONTINGENT EXPENSES OF THE HOUSE			
Joint Committee on Taxation	4,500,000	4,346,000	−154,000
OFFICE OF THE ATTENDING PHYSICIAN			
Medical supplies, equipment, expenses, and allowances	1,414,000	1,414,000	

See footnotes at end of table, p. 2329.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-458, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989[1]	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
CAPITOL POLICE BOARD			
CAPITOL POLICE			
Salaries:			
Sergeant at Arms of the House of Representatives		$25,673,000	+$25,673,000
Sergeant at Arms and Doorkeeper of the Senate		27,249,000	+27,249,000
Total, salaries		52,922,000	+52,922,000
General expenses	$2,189,000	1,887,000	−302,000
Total, Capitol Police Board	2,189,000	54,809,000	+52,620,000
OFFICIAL MAIL COSTS			
Expenses	58,926,000	53,926,000	−5,000,000
CAPITOL GUIDE SERVICE			
Salaries and expenses	1,220,000	1,220,000	
STATEMENTS OF APPROPRIATIONS			
Preparation	20,000	20,000	
Total, joint items	73,598,000	120,983,000	+47,385,000
OFFICE OF TECHNOLOGY ASSESSMENT			
Salaries and expenses	18,321,000	17,937,000	−384,000
BIOMEDICAL ETHICS BOARD[4]			
Salaries and expenses			
CONGRESSIONAL BUDGET OFFICE			
Salaries and expenses	18,900,000	18,361,000	−539,000
ARCHITECT OF THE CAPITOL			
OFFICE OF THE ARCHITECT OF THE CAPITOL			
Salaries	7,236,000	6,532,000	−704,000
Travel *(limitation on administrative expenses)*	*(20,000)*	*(20,000)*	
Contingent expenses	100,000	100,000	
Total, Office of the Architect of the Capitol	7,336,000	6,632,000	−704,000
CAPITOL BUILDINGS AND GROUNDS			
Capitol buildings	21,180,000	15,471,000	−5,709,000
Capitol grounds	3,911,000	3,771,000	−140,000
Senate Office Buildings	38,459,000	24,086,000	−14,373,000
House Office Buildings	32,910,000	28,895,000	−4,015,000
Capitol Power Plant	26,855,000	26,735,000	−120,000
Offsetting collections	−1,950,000	−1,950,000	
Net, Capitol Power Plant	24,905,000	24,785,000	−120,000
Total, Capitol buildings and grounds	121,365,000	97,008,000	−24,357,000
Total, Architect of the Capitol *(except items in Title II)*	128,701,000	103,640,000	−25,061,000
LIBRARY OF CONGRESS			
CONGRESSIONAL RESEARCH SERVICE			
Salaries and expenses	47,889,000	44,684,000	−3,205,000

See footnotes at end of table, p. 2329.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-458, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989 [1]	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
SPEAKER'S CIVIC ACHIEVEMENT AWARDS PROGRAM			
Expenses	$680,000		−$680,000
Total, Library of Congress	48,569,000	$44,684,000	−3,885,000
GOVERNMENT PRINTING OFFICE			
Congressional printing and binding	77,700,000	72,000,000	−5,700,000
JOHN C. STENNIS CENTER FOR PUBLIC SERVICE TRAINING AND DEVELOPMENT			
Appropriations (sec. 121)		7,500,000	+7,500,000
Total, title I—Congressional Operations	1,319,447,200	1,231,850,200	−87,597,000
TITLE II—OTHER AGENCIES			
BOTANIC GARDEN			
Salaries and expenses	2,521,000	2,521,000	
LIBRARY OF CONGRESS			
Salaries and expenses	164,189,000	153,042,000	−11,147,000
Authority to spend receipts	−5,000,000	−5,000,000	
Net total, salaries and expenses	159,189,000	148,042,000	−11,147,000
Copyright Office, salaries and expenses	20,173,000	19,697,000	−476,000
Authority to spend receipts	−8,034,000	−8,034,000	
Net total, Copyright Office	12,139,000	11,663,000	−476,000
Books for the blind and physically handicapped, salaries and expenses	37,692,000	36,474,000	−1,218,000
Furniture and furnishings	3,575,000	3,381,000	−194,000
Total, Library of Congress *(except items in Title I)*	212,595,000	199,560,000	−13,035,000
ARCHITECT OF THE CAPITOL			
LIBRARY BUILDINGS AND GROUNDS			
Structural and mechanical care	8,975,000	7,500,000	−1,475,000
COPYRIGHT ROYALTY TRIBUNAL			
Salaries and expenses	637,000	633,000	−4,000
Authority to spend receipts	−510,000	−510,000	
Net total, Copyright Royalty Tribunal	127,000	123,000	−4,000
GOVERNMENT PRINTING OFFICE			
OFFICE OF SUPERINTENDENT OF DOCUMENTS			
Salaries and expenses	26,800,000	25,155,000	−1,645,000
Authority to spend receipts		−11,424,000	−11,424,000
Net total, Office of Superintendent of Documents	26,800,000	13,731,000	−13,069,000
GENERAL ACCOUNTING OFFICE			
Salaries and expenses	393,864,000	347,339,000	−46,525,000

See footnotes at end of table, p. 2329.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-447, APPROVED SEPTEMBER 28, 1988

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
Military construction, Army	$930,300,000	$927,292,000	−$3,008,000
Military construction, Navy	1,611,200,000	1,576,516,000	−34,684,000
Coast Guard shore facilities		50,300,000	+50,300,000
Military construction, Air Force	1,300,600,000	1,225,926,000	−74,674,000
Military construction, Defense agencies	712,000,000	679,533,000	−32,467,000
Rescission		−19,548,000	−19,548,000
Total, Military construction, Defense agencies *(net)*	712,000,000	659,985,000	−52,015,000
North Atlantic Treaty Organization Infrastructure	502,100,000	492,000,000	−10,100,000
Military construction, Army National Guard	138,300,000	229,158,000	+90,858,000
Military construction, Air National Guard	147,500,000	158,508,000	+11,008,000
Military construction, Army Reserve	79,900,000	85,958,000	+6,058,000
Military construction, Naval Reserve	48,400,000	60,900,000	+12,500,000
Military construction, Air Force Reserve	58,800,000	70,600,000	+11,800,000
Total, military construction:			
New budget *(obligational)* authority *(net)*	5,529,100,000	5,537,143,000	+8,043,000
Appropriations	(5,529,100,000)	(5,556,691,000)	(+27,591,000)
Rescission		(−19,548,000)	(−19,548,000)
Family housing, Army:			
Appropriation	1,528,271,000	1,527,602,000	−669,000
Portion applied to debt reduction	−371,000	−371,000	
Total, family housing, Army	1,527,900,000	1,527,231,000	−669,000
Family housing, Navy and Marine Corps:			
Appropriation	795,428,000	799,169,000	+3,741,000
Portion applied to debt reduction	−128,000	−128,000	
Total, family housing, Navy and Marine Corps	795,300,000	799,041,000	+3,741,000
Family housing, Air Force:			
Appropriation	922,966,000	910,951,000	−12,015,000
Portion applied to debt reduction	−66,000	−66,000	
Total, family housing, Air Force	922,900,000	910,885,000	−12,015,000
Family housing, Defense agencies	20,700,000	20,700,000	
Homeowners Assistance Fund, Defense	2,000,000	2,000,000	
Total, family housing:			
New budget *(obligational)* authority	3,268,800,000	3,259,857,000	−8,943,000
Appropriations	(3,269,365,000)	(3,260,422,000)	(−8,943,000)
Applied to debt reduction	(−565,000)	(−565,000)	
Grand total:			
New budget *(obligational)* authority *(net)*	8,797,900,000	8,797,000,000	−900,000
Appropriations	(8,797,900,000)	(8,816,548,000)	(+18,648,000)
Rescission		(−19,548,000)	(−19,548,000)
Applied to debt reduction	(−565,000)	(−565,000)	

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-458, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989 [1]	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
GENERAL SERVICES ADMINISTRATION [5]			
Expenses, Presidential Transition (sec. 307D)		$2,000,000	+$2,000,000
(By transfer)	*($2,000,000)*		*(−2,000,000)*
Total, title II—other agencies	644,882,000	572,774,000	−72,108,000
Grand total:			
New budget *(obligational)* authority	1,964,329,200	1,804,624,200	−159,705,000
(By transfer)	*(2,000,000)*		*(−2,000,000)*
(Limitation on administrative expenses)	*(20,000)*	*(20,000)*	

[1] Includes the following budget amendments:

H. Doc. 100-199:
Congressional Operations:
House of Representatives:
Salaries and expenses $1,345,000
Joint Items:
Joint Committee on Taxation 34,000
Joint Committee on Printing 34,000
Total, H. Doc. 100-199 1,413,000

H. Doc. 100-214:
Congressional Operations:
Senate:
Miscellaneous items 69,000
Sergeant at Arms and Doorkeeper of the Senate 558,000
Inquiries and investigations 1,201,000
House of Representatives:
Salaries and expenses 300,000
Joint items:
Joint Congressional Committee on Inaugural Ceremonies of 1989 700,000
Total, H. Doc. 100-214 2,828,000

H. Doc. 100-232:
Other Agencies:
General Services Administration:
Expenses, Presidential Transition *(by transfer)* ..... *(2,000,000)*
Total, budget amendments 4,241,000

[2] Additionally, section 11 of the Administrative Provisions provided for the carryover of fiscal year 1988 funds in the amount of $3,600,000 to fiscal year 1989.

[3] For display purposes this item is included under title I, Congressional Operations, however, the amounts were appropriated under title III, sec. 307A.

[4] In title II, Other Agencies, under the heads "Biomedical Ethics Board", "Salaries and expenses", language provided that the amounts appropriated under this head in fiscal year 1988 would be made available in fiscal year 1989.

[5] For display purposes this item is included under title II, Other Agencies, however, the amount was appropriated under title III, sec. 307D.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-460, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
Payments to States and possessions		$942,000	+$942,000
Office of Transportation	$1,395,000	2,397,000	+1,002,000
Total, Agricultural Marketing Service	34,482,000	36,712,000	+2,230,000
Packers and Stockyards Administration	9,562,000	9,562,000	
Total, Production, Processing and Marketing	2,227,119,000	2,388,687,000	+161,568,000
FARM INCOME STABILIZATION			
Office of the Under Secretary for International Affairs and Commodity Programs	413,000	413,000	
Agricultural Stabilization and Conservation Service:			
(By transfer from Commodity Credit Corporation)	*(580,000,000)*	*(580,000,000)*	
Dairy indemnity program		5,000	+5,000
Total, Farm Income Stabilization	*(580,413,000)*	*(580,418,000)*	*(+5,000)*
CORPORATIONS			
Federal Crop Insurance Corporation:			
Administrative and operating expenses	217,970,000	201,992,000	−15,978,000
Federal crop insurance corporation fund	112,000,000	112,000,000	
Total, Federal Crop Insurance Corporation	329,970,000	313,992,000	−15,978,000
Commodity Credit Corporation:			
Reimbursement for net realized losses	[1] 9,828,286,000	8,828,286,000	−1,000,000,000
Short-term export credit *(loan authorization)*		*(5,000,000,000)*	*(+5,000,000,000)*
Intermediate export credit *(loan authorization)*		*(500,000,000)*	*(+500,000,000)*
General Sales Manager *(transfer from Commodity Credit Corporation)*	*(7,268,000)*	*(7,200,000)*	*(−68,000)*
Total, Corporations:			
New budget *(obligational)* authority	10,158,256,000	9,142,278,000	−1,015,978,000
(By transfer)	*(7,268,000)*	*(7,200,000)*	*(−68,000)*
(Loan authorization)		*(5,500,000,000)*	*(+5,500,000,000)*
Total, title I, Agricultural Programs:			
New budget *(obligational)* authority	12,385,788,000	11,531,383,000	−854,405,000
(By transfer)	*(595,179,000)*	*(595,011,000)*	*(−168,000)*
(Loan authorization)		*(5,500,000,000)*	*(+5,500,000,000)*
(Limitation on administrative expenses)	*(68,557,000)*	*(70,856,000)*	*(+2,299,000)*
TITLE II—RURAL DEVELOPMENT PROGRAMS			
RURAL DEVELOPMENT ASSISTANCE			
Office of the Under Secretary for Small Community and Rural Development	418,000	418,000	
Farmers Home Administration:			
Rural Housing Insurance Fund:			
Insured loans *(loan authorization)*		*(1,844,420,000)*	*(+1,844,420,000)*
Site loans *(loan authorization)*		*(570,000)*	*(+570,000)*
Subtotal *(loan authorization)*		*(1,844,990,000)*	*(+1,844,990,000)*
Collection and servicing contracts *(limitation on obligations)*		*(10,000,000)*	*(+10,000,000)*
Rent supplement authorization *(limitation on obligations)*		*(275,310,000)*	*(+275,310,000)*
Reimbursement for interest and other losses	3,660,061,000	3,660,061,000	

See footnotes at end of table, p. 2336.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-460, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
Total, Rural Housing Insurance Fund:			
New budget *(obligational)* authority	$3,660,061,000	$3,660,061,000	
(Loan authrization)		*(1,844,990,000)*	*(+$1,844,990,000)*
(Limitation on obligations)		*(285,310,000)*	*(+285,310,000)*
Self-help Housing Land Development Fund *(loan authorization)*		*(500,000)*	*(+500,000)*
Agricultural Credit Insurance Fund:			
Farm ownership loans *(loan authorization)*:			
Insured		*(95,000,000)*	*(+95,000,000)*
Guaranteed	*(100,000,000)*	*(474,000,000)*	*(+374,000,000)*
Total, farm ownership loans *(loan authorization)*	*(100,000,000)*	*(569,000,000)*	*(+469,000,000)*
Soil and water loans *(loan authorization)*:			
Insured		*(11,000,000)*	*(+11,000,000)*
Guaranteed		*(3,000,000)*	*(+3,000,000)*
Total, soil and water loans *(loan authorization)*		*(14,000,000)*	*(+14,000,000)*
Operating loans *(loan authorization)*:			
Insured	*(500,000,000)*	*(900,000,000)*	*(+400,000,000)*
Guaranteed	*(3,500,000,000)*	*(2,300,000,000)*	*(−1,200,000,000)*
Total, operating loans *(loan authorization)*	*(4,000,000,000)*	*(3,200,000,000)*	*(−800,000,000)*
Indian tribe land acquisition loans *(loan authorization)*		*(2,000,000)*	*(+2,000,000)*
Emergency disaster loans *(loan authorization)*	*(100,000,000)*	*(600,000,000)*	*(+500,000,000)*
Watershed and flood prevention *(loan authorization)*		[2] *(7,949,000)*	*(+7,949,000)*
Resource conservation loans *(loan authorization)*		[2] *(1,207,000)*	*(+1,207,000)*
State mediation program *(by transfer)*		*(3,000,000)*	*(+3,000,000)*
Reimbursement for interest and other losses	3,467,596,000	3,467,596,000	
Total, Agricultural Credit Insurance Fund:			
New budget *(obligational)* authority	3,467,596,000	3,467,596,000	
(By transfer)		*(3,000,000)*	*(+3,000,000)*
(Loan authorization)	*(4,200,000,000)*	*(4,394,156,000)*	*(+194,156,000)*
Rural Development Insurance Fund:			
Water and sewer facility loans *(loan authorization)*	*(250,000,000)*	*(330,380,000)*	*(+80,380,000)*
Industrial development loans: Guaranteed *(loan authorization)*	*(95,700,000)*	*(95,700,000)*	
Community facility loans *(loan authorization)*	*(50,000,000)*	*(95,700,000)*	*(+45,700,000)*
Reimbursement for interest and other losses	1,607,047,000	1,607,047,000	
Total, Rural Development Insurance Fund:			
New budget *(obligational)* authority	1,607,047,000	1,607,047,000	
(Loan authorization)	*(395,700,000)*	*(521,780,000)*	*(+126,080,000)*
Rural Development Loan Fund *(loan authorization)*		*(14,000,000)*	*(+14,000,000)*
Rural water and waste disposal grants	75,000,000	109,395,000	+34,395,000
Very low-income housing repair grants		12,500,000	+12,500,000
Rural housing for domestic farm labor		9,513,000	+9,513,000
Mutual and self-help housing		8,000,000	+8,000,000
Rural community fire protection grants		3,091,000	+3,091,000
Compensation for construction defects		500,000	+500,000
Rural rental assistance payments (voucher program)	381,600,000		−381,600,000
Rural housing preservation grants		19,140,000	+19,140,000
Rural development grants		6,500,000	+6,500,000
Office of the Administrator		600,000	+600,000

See footnotes at end of table, p. 2336.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-460, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
Salaries and expenses	$420,188,000	$414,734,000	−$5,454,000
(Transfer from loan accounts)	*(4,000,000)*	*(4,000,000)*	
Total, salaries and expenses	*(424,188,000)*	*(418,734,000)*	*(−5,454,000)*
Total, Farmers Home Administration:			
New budget *(obligational)* authority	9,611,492,000	9,318,677,000	−292,815,000
(By transfer)	*(4,000,000)*	*(7,000,000)*	*(+3,000,000)*
(Loan authorization)	*(4,595,700,000)*	*(6,775,426,000)*	*(+2,179,726,000)*
(Limitation on obligations)		*(285,310,000)*	*(+285,310,000)*
Rural Electrification Administration:			
Rural electrification and telephone revolving fund:			
Insured loans:			
Electric		*(622,050,000)*	*(+622,050,000)*
Telephone		*(239,250,000)*	*(+239,250,000)*
Total, insured loans *(loan authorization)*		*(861,300,000)*	*(+861,300,000)*
Guaranteed loans:			
Electric		*(813,450,000)*	*(+813,450,000)*
Telephone		*(119,625,000)*	*(+119,625,000)*
Total, guaranteed loans *(loan authorization)*		*(933,075,000)*	*(+933,075,000)*
Reimbursement to the rural electrification and telephone revolving fund		341,000,000	+341,000,000
Total, Rural electrification and telephone revolving fund:			
New budget *(obligational)* authority		341,000,000	+341,000,000
(Loan authorization)		*(1,794,375,000)*	*(+1,794,375,000)*
Rural telephone bank		28,710,000	+28,710,000
Direct loans *(limitation on obligations)*	*(177,045,000)*	*(177,045,000)*	
Rural communication development fund	1,447,000	1,447,000	
Rural economic development subaccount		540,000	+540,000
Office of the Administrator		160,000	+160,000
Salaries and expenses	22,137,000	31,124,000	+8,987,000
Total, Rural Electrification Administration:			
New budget *(obligational)* authority	23,584,000	402,981,000	+379,397,000
(Loan authorization)		*(1,794,375,000)*	*(+1,794,375,000)*
(Limitation on obligations)	*(177,045,000)*	*(177,045,000)*	
Total, Rural Development Assistance:			
New budget *(obligational)* authority	9,635,494,000	9,722,076,000	+86,582,000
(By transfer)	*(4,000,000)*	*(7,000,000)*	*(+3,000,000)*
(Loan authorization)	*(4,595,700,000)*	*(8,569,801,000)*	*(+3,974,101,000)*
(Limitation on obligations)	*(177,045,000)*	*(462,355,000)*	*(+285,310,000)*
CONSERVATION			
Office of the Assistant to the Secretary for Natural Resources and Environment	461,000	266,000	−195,000
Soil Conservation Service:			
Conservation operations	455,208,000	403,262,000	−51,946,000
River basin surveys and investigations		12,051,000	+12,051,000
Watershed planning		8,651,000	+8,651,000
Watershed and flood prevention operations		172,373,000	+172,373,000
Resource conservation and development	25,020,000	25,120,000	+100,000
Great Plains conservation program	6,013,000	20,474,000	+14,461,000
Water resource management and protection	116,000,000		−116,000,000
Total, Soil Conservation Service	602,241,000	641,931,000	+39,690,000

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-460, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
Agricultural Stabilization and Conservation Service:			
Agricultural conservation program		$176,935,000	+$176,935,000
Forestry incentives program		12,446,000	+12,446,000
Water bank program		9,000,000	+9,000,000
Emergency conservation program		5,000,000	+5,000,000
Colorado River Basin salinity control program		5,452,000	+5,452,000
Conservation reserve program	$1,864,000,000	1,864,000,000	
Total, Agricultural Stabilization and Conservation Service	1,864,000,000	2,072,833,000	+208,833,000
Total, Conservation	2,466,702,000	2,715,030,000	+248,328,000
Total, title II, Rural Development Programs:			
New budget *(obligational)* authority	12,102,196,000	12,437,106,000	+334,910,000
(By transfer)	*(4,000,000)*	*(7,000,000)*	*(+3,000,000)*
(Loan authorization)	*(4,595,700,000)*	*(8,569,801,000)*	*(+3,974,101,000)*
(Limitation on obligations)	*(177,045,000)*	*(462,355,000)*	*(+285,310,000)*
TITLE III—DOMESTIC FOOD PROGRAMS			
Office of the Assistant Secretary for Food and Consumer Services	406,000	406,000	
Food and Nutrition Service:			
Child nutrition programs	515,855,000	497,544,000	−18,311,000
(By transfer from sec. 32)	*(4,093,272,000)*	*(4,093,272,000)*	
Total, Child nutrition programs	*(4,609,127,000)*	*(4,590,816,000)*	*(−18,311,000)*
Special milk program	19,925,000	19,925,000	
Special supplemental food program for women, infants, and children (WIC)	1,876,749,000	1,929,362,000	+52,613,000
Commodity supplemental food program	47,099,000	50,000,000	+2,901,000
Food stamp program	12,519,705,000	12,690,705,000	+171,000,000
Nutrition assistance for Puerto Rico	908,250,000	908,250,000	
Total, Food stamp program	13,427,955,000	13,598,955,000	+171,000,000
Food donations programs for selected groups:			
Needy family program	57,854,000	57,854,000	
Elderly feeding program	141,293,000	141,293,000	
Subtotal	199,147,000	199,147,000	
Soup kitchens		40,000,000	+40,000,000
Total, Food donations programs	199,147,000	239,147,000	+40,000,000
Temporary emergency food assistance program		50,000,000	+50,000,000
Commodity purchases		120,000,000	+120,000,000
Total, Temporary emergency food assistance program		170,000,000	+170,000,000
Food program administration	94,825,000	89,223,000	−5,602,000
Total, Food and Nutrition Service	16,181,555,000	16,594,156,000	+412,601,000
Human Nutrition Information Service	9,288,000	8,823,000	−465,000
Total, title III, Domestic Food Programs:			
New budget *(obligational)* authority	16,191,249,000	16,603,385,000	+412,136,000
(By transfer)	*(4,093,272,000)*	*(4,093,272,000)*	
TITLE IV—INTERNATIONAL PROGRAMS			
Foreign Agricultural Service	89,057,000	95,017,000	+5,960,000

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-460, APPROVED OCTOBER 1, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
Agricultural trade missions		$400,000	+$400,000
Public Law 480:			
Title I and III—Credit sales:			
Program level	*($812,000,000)*	*(851,900,000)*	*(+39,900,000)*
Direct loans	*(734,700,000)*	*(786,400,000)*	*(+51,700,000)*
Ocean freight differential	*(77,300,000)*	*(65,500,000)*	*(−11,800,000)*
Appropriation	428,200,000	468,100,000	+39,900,000
Title II—Commodities for disposition abroad:			
Program level	*(595,000,000)*	*(630,000,000)*	*(+35,000,000)*
Appropriation	595,000,000	630,000,000	+35,000,000
Total, Public Law 480:			
Program level	*(1,407,000,000)*	*(1,481,900,000)*	*(+74,900,000)*
Appropriation	1,023,200,000	1,098,100,000	+74,900,000
Office of International Cooperation and Development	3,972,000	5,319,000	+1,347,000
Scientific activities overseas (foreign currency program)		1,000,000	+1,000,000
Total, title IV, International Programs, new budget *(obligational)* authority	1,116,229,000	1,199,836,000	+83,607,000
TITLE V—RELATED AGENCIES			
DEPARTMENT OF HEALTH AND HUMAN SERVICES			
FOOD AND DRUG ADMINISTRATION			
Salaries and expenses	441,424,000	441,424,000	
Acquired Immune Deficiency activities	[3] 40,420,000	40,420,000	
Total, salaries and expenses	481,844,000	481,844,000	
Buildings and facilities	[3] 26,450,000	23,950,000	−2,500,000
Rental payments (FDA)	25,612,000	25,612,000	
Total, Food and Drug Administration	533,906,000	531,406,000	−2,500,000
DEPARTMENT OF TREASURY			
Payments to the Farm Credit System Financial Assistance Corporation	175,000,000	175,000,000	
Farm Credit System Assistance Board *(limitation on administrative expenses)*		*(2,000,000)*	*(+2,000,000)*
INDEPENDENT AGENCIES			
Commodity Futures Trading Commission	35,547,000	34,723,000	−824,000
Farm Credit Administration *(limitation on administrative expenses)*	*(38,100,000)*	*(35,000,000)*	*(−3,100,000)*
Total, title V, Related Agencies:			
New budget *(obligational)* authority	744,453,000	741,129,000	−3,324,000
(Limitation on administrative expenses)	*(38,100,000)*	*(37,000,000)*	*(−1,100,000)*
Grand Total:			
New budget *(obligational)* authority	42,539,915,000	42,512,839,000	−27,076,000
(By transfer)	*(4,692,451,000)*	*(4,695,283,000)*	*(+2,832,000)*
(Loan authorization)	*(4,595,700,000)*	*(14,069,801,000)*	*(+9,474,101,000)*
(Limitation on obligations)	*(177,045,000)*	*(462,355,000)*	*(+285,310,000)*
(Limitation on administrative expenses)	*(106,657,000)*	*(107,856,000)*	*(+1,199,000)*

[1] The President's budget requested $15,533,425,000 as authority to borrow under "Permanent Federal funds". The Congress provided a current appropriation in lieu of the permanent borrowing authority. The current request was based on the President's estimate of $9,828,286,000 (see p. I-E3, Budget Appendix for fiscal year 1989, H. Doc. 100-153).

[2] Loan authorizations, part of Soil Conservation Service, are made through ACIF and are included here for totalling.

[3] Includes $65,420,000 requested for AIDS. In addition, $1,234,580,000 for AIDS was requested for other agencies of the Department of Health and Human Services and considered in the Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989 (P.L. 100-436) (see footnote 4, p. 2323, this volume).

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-457, APPROVED SEPTEMBER 30, 1988

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
TITLE I—DEPARTMENT OF TRANSPORTATION			
OFFICE OF THE SECRETARY			
Salaries and expenses	$58,205,000		−$58,205,000
Immediate Office of the Secretary		$1,071,000	+1,071,000
Immediate Office of the Deputy Secretary		464,000	+464,000
Office of the General Counsel		6,000,000	+6,000,000
Office of the Assistant Secretary for Policy and International Affairs		7,950,000	+7,950,000
Office of the Assistant Secretary for Budget and Programs		2,241,000	+2,241,000
Office of the Assistant Secretary for Governmental Affairs		2,265,000	+2,265,000
Office of the Assistant Secretary for Administration		24,300,000	+24,300,000
Office of the Assistant Secretary for Public Affairs		1,455,000	+1,455,000
Executive Secretariat		824,000	+824,000
Contract Appeals Board		440,000	+440,000
Office of Civil Rights		1,305,000	+1,305,000
Office of Commercial Space Transportation		585,000	+585,000
Office of Essential Air Service		1,727,000	+1,727,000
Office of Small and Disadvantaged Business Utilization		3,915,000	+3,915,000
Total, salaries and expenses	58,205,000	54,542,000	−3,663,000
Transportation planning, research, and development	6,700,000	5,600,000	−1,100,000
Working capital fund:			
(Limitation on working capital fund)	*(135,000,000)*	*(130,350,000)*	*(−4,650,000)*
Appropriation	3,705,000	3,200,000	−505,000
Payments to air carriers		25,000,000	+25,000,000
Total, Office of the Secretary	68,610,000	88,342,000	+19,732,000
COAST GUARD			
Operating expenses	[1] 2,100,506,000	[1,2] 1,896,116,000	−204,390,000
(By transfer)		[2] *(4,500,000)*	*(+4,500,000)*
Acquisition, construction, and improvements	348,000,000	[4] 295,000,000	−53,000,000
Alteration of bridges	8,500,000	8,500,000	
(By transfer)		[3] *(5,000,000)*	*(+5,000,000)*
Retired pay	410,800,000	410,800,000	
Reserve training	68,500,000	67,000,000	−1,500,000
Research, development, test, and evaluation	19,000,000	18,800,000	−200,000
Offshore oil pollution compensation fund *(limitation)*	*(60,000,000)*	*(60,000,000)*	
Deepwater port liability fund *(limitation)*	*(50,000,000)*	*(50,000,000)*	
Boat safety (Aquatic Resources Trust Fund)	15,000,000		−15,000,000
(Liquidation of contract authorization)		*(30,000,000)*	*(+30,000,000)*
(Limitation on obligations)		*(30,000,000)*	*(+30,000,000)*
Total, Coast Guard	2,970,306,000	2,696,216,000	−274,090,000
FEDERAL AVIATION ADMINISTRATION			
Headquarters administration	37,057,000	36,600,000	−457,000
Operations	[5] 3,444,000,000	[5] 3,410,000,000	−34,000,000
(By transfer)	*(10,000,000)*	*(10,000,000)*	
Subtotal, Headquarters administration and operations	3,481,057,000	3,446,600,000	−34,457,000
Facilities and equipment *(Airport and Airway Trust Fund)*	1,600,000,000	1,384,528,000	−215,472,000
Research, engineering, and development *(Airport and Airway Trust Fund)*	155,000,000	160,000,000	+5,000,000

See footnotes at end of table, p. 2341.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-457, APPROVED SEPTEMBER 30, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
Grants-in-aid for airports *(Airport and Airway Trust Fund)*:			
(Liquidation of contract authorization)	*($1,110,000,000)*	*($1,150,000,000)*	*(+$40,000,000)*
(Limitation on obligations)	*(1,200,000,000)*	*(1,400,000,000)*	*(+200,000,000)*
Rescission of contract authority		−100,000,000	−100,000,000
Aircraft purchase loan guarantee program *(limitation on borrowing authority)*	*(57,000,000)*	*(50,000,000)*	*(−7,000,000)*
Total, Federal Aviation Administration *(net)*	5,236,057,000	4,891,128,000	−344,929,000
FEDERAL HIGHWAY ADMINISTRATION			
(Limitation on general operating expenses)	*(223,901,000)*	*(217,350,000)*	*(−6,551,000)*
Highway safety research and development *(Highway Trust Fund)*	[7]	6,080,000	+6,080,000
Highway-related safety grants *(Highway Trust Fund)*:			
(Liquidation of contract authorization)	*(10,000,000)*	*(10,000,000)*	
(Limitation on obligations)	*(10,000,000)*	*(9,405,000)*	*(−595,000)*
Railroad-highway crossings demonstration projects		[8]7,560,000	+7,560,000
Federal-aid highways *(Highway Trust Fund)*:			
(Limitation on obligations)	*(11,398,000,000)*	*(12,000,000,000)*	*(+602,000,000)*
(Liquidation of contract authorization)	*(12,700,000,000)*	*(12,700,000,000)*	
Right-of-way Revolving Fund *(limitation on direct loans) (Highway Trust Fund)*	*(47,850,000)*	*(46,000,000)*	*(−1,850,000)*
Motor carrier safety	24,577,000	27,000,000	+2,423,000
Motor carrier safety grants *(Highway Trust Fund)*:			
(Liquidation of contract authorization)	*(50,000,000)*	*(50,000,000)*	
(Limitation on obligations)	*(60,000,000)*	*(60,000,000)*	
Access highways to public recreation areas on certain lakes		1,291,000	+1,291,000
Baltimore-Washington Parkway *(Highway Trust Fund)*		12,825,000	+12,825,000
Intermodal urban demonstration project *(Highway Trust Fund)*		8,550,000	+8,550,000
Highway safety and economic development demonstration projects *(Highway Trust Fund)*		8,550,000	+8,550,000
Airport access demonstration project *(Highway Trust Fund)*		1,300,000	+1,300,000
Highway safety improvement demonstration project *(Highway Trust Fund)*		1,260,000	+1,260,000
Highway-railroad grade crossing safety demonstration project *(Highway Trust Fund)*		8,100,000	+8,100,000
Nuclear waste transportation safety demonstration project *(Highway Trust Fund)*		3,600,000	+3,600,000
Highway widening demonstration project		1,800,000	+1,800,000
Bridge improvement demonstration project		8,550,000	+8,550,000
Highway widening and improvement demonstration project		4,100,000	+4,100,000
Intersection safety demonstration project		900,000	+900,000
Highway capacity improvement demonstration project		900,000	+900,000
Climbing lane safety demonstration project		450,000	+450,000
Indiana industrial corridor safety demonstration project		1,000,000	+1,000,000
Oklahoma highway widening demonstration project		400,000	+400,000
Alabama highway bypass demonstration project		3,600,000	+3,600,000
Kentucky bridge demonstration project		3,600,000	+3,600,000
Virginia HOV safety demonstration project		500,000	+500,000
Urban highway corridor demonstration project		225,000	+225,000
Urban airport access safety demonstration project		225,000	+225,000
Corridor safety improvement project *(Highway Trust Fund)*		28,000,000	+28,000,000
Bridge capacity improvements *(Highway Trust Fund)*		3,763,000	+3,763,000
Corridor H improvement project		16,000,000	+16,000,000
Road extension demonstration		600,000	+600,000
Bridge restoration		2,000,000	+2,000,000
Reservation road		3,500,000	+3,500,000
Total, Federal Highway Administration	24,577,000	166,229,000	+141,652,000

See footnotes at end of table, p. 2341.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-457, APPROVED SEPTEMBER 30, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION			
Operations and research	$63,124,000	$67,899,000	+$4,775,000
Highway Trust Fund	31,414,000	30,751,000	−663,000
Subtotal, Operations and research	94,538,000	98,650,000	+4,112,000
Highway traffic safety grants:			
(Liquidation of contract authorization) (Highway Trust Fund)	*(130,500,000)*	*(130,500,000)*	
State and community highway safety grants *(limitation on obligations)*	*(115,000,000)*	*(115,000,000)*	
Alcohol safety incentive grants *(limitation on obligations)*	*(13,500,000)*	*(11,000,000)*	*(−2,500,000)*
Education grants (sec. 209) *(cumulative limitation on obligations)*	*(4,750,000)*	*(4,750,000)*	
Total, National Highway Traffic Safety Administration	94,538,000	98,650,000	+4,112,000
FEDERAL RAILROAD ADMINISTRATION			
Office of the Administrator	18,292,000	20,975,000	+2,683,000
(By transfer)		[9] *(4,000,000)*	*(+4,000,000)*
Railroad safety	28,518,000	27,825,000	−693,000
Railroad research and development	9,297,000	9,286,000	−11,000
Northeast corridor improvement program		19,600,000	+19,600,000
Grants to the National Railroad Passenger Corporation		584,000,000	+584,000,000
Railroad Rehabilitation and Improvement Financing Funds *(railroad credit enhancement)*	*(120,000,000)*	*(99,000,000)*	*(−21,000,000)*
Conrail commuter transition assistance		4,500,000	+4,500,000
Total, Federal Railroad Administration	56,107,000	666,186,000	+610,079,000
URBAN MASS TRANSPORTATION ADMINISTRATION			
Administrative expenses		31,882,000	+31,882,000
Research, training, and human resources		10,000,000	+10,000,000
Formula grants		1,605,000,000	+1,605,000,000
Formula transit grants:			
(Limitation of obligations)	*(1,394,000,000)*		*(−1,394,000,000)*
(Liquidation of contract authorization)	*(500,000,000)*		*(−500,000,000)*
Discretionary grants *(Highway Trust Fund) (limitation on obligations)*		*(1,140,000,000)*	*(+1,140,000,000)*
Mass transit capital fund *(Highway Trust Fund) (liquidation of contract authorization)*	*(400,000,000)*	*(400,000,000)*	
Interstate transfer grants—transit		200,000,000	+200,000,000
Washington Metro	128,000,000	168,000,000	+40,000,000
Total, Urban Mass Transportation Administration	128,000,000	2,014,882,000	+1,886,882,000
SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION			
Operations and maintenance *(Harbor Maintenance Trust Fund)*	11,500,000	11,100,000	−400,000
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION			
Research and special programs	15,559,000	14,800,000	−759,000
Pipeline safety *(Pipeline Safety Fund)*	9,723,000	9,300,000	−423,000
Total, Reseach and Special Programs Administration	25,282,000	24,100,000	−1,182,000

See footnotes at end of table, p. 2341.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-457, APPROVED SEPTEMBER 30, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
Wisconsin rail service (sec. 345a)		$6,000,000	+$6,000,000
Reduction in consultant services (sec. 347)		−34,171,000	−34,171,000
Total, title III, General Provisions:			
New budget *(obligational)* authority *(net)*		−24,796,000	−24,796,000
Appropriations		(−21,796,000)	(−21,796,000)
Rescission		(−3,000,000)	(−3,000,000)
Grand total:			
New budget *(obligational)* authority *(net)*	$8,777,912,569	10,793,766,569	+2,015,854,000
Appropriations	(8,777,912,569)	(10,896,766,569)	(+2,118,854,000)
Rescissions		(−103,000,000)	(−103,000,000)
(By transfer)	*(10,000,000)*	*(23,500,000)*	*(+13,500,000)*
(Limitations on general operating expenses)	*(223,901,000)*	*(217,350,000)*	*(−6,551,000)*
(Limitation on borrowing authority)	*(57,000,000)*	*(50,000,000)*	*(−7,000,000)*
(Limitations on obligations)	*(14,300,975,000)*	*(14,875,880,000)*	*(+574,905,000)*
(Limitation on cumulative obligations)	*(4,750,000)*	*(4,750,000)*	
(Limitation on working capital fund)	*(135,000,000)*	*(130,350,000)*	*(−4,650,000)*
(Limitations on direct loans)	*(47,850,000)*	*(46,000,000)*	*(−1,850,000)*
(Appropriations to liquidate contract authorizations)	*(14,900,500,000)*	*(14,470,500,000)*	*(−430,000,000)*
Panama Canal Revolving Fund:			
(Administrative expenses)	*(50,287,000)*	*(50,287,000)*	
(Limitation on operating and capital expenses)		*(436,548,000)*	*(+436,548,000)*

[1] Includes $30,000,000 current trust funds.
[2] In addition, $200,000,000 ($140,000,000 of in-kind operating assistance and $60,000,000 new budget authority) is provided in the Department of Defense Appropriations Act, 1989 (P.L. 100-463, Title VIII, General Provisions, Sec. 8110) (see p. 94, this volume).
[3] Transfer to be derived from "Coast Guard, acquisition, construction, and improvements".
[4] In addition, $50,300,000 is provided in the Military Construction Appropriations Act, 1989 (P.L. 100-447, Coast Guard Shore Facilities) (see p. 350, this volume).
[5] Includes $1,477,500,000 current trust funds.
[6] Includes $471,320,000 current trust funds
[7] Proposed to be funded within the "Limitation on General Operating Expenses" account.
[8] Includes $5,040,000 current trust funds.
[9] Transfer to be derived from unobligated balances of "Grants to the National Railroad Passenger Corporation".

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-460, APPROVED OCTOBER 1, 1988

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
TITLE I—AGRICULTURAL PROGRAMS			
PRODUCTION, PROCESSING AND MARKETING			
Office of the Secretary	$1,762,000	$1,762,000	
Office of the Deputy Secretary	363,000	363,000	
Office of the Assistant to the Secretary for Special Services		150,000	+$150,000
Office of the Assistant Secretary for Administration	467,000	467,000	
Rental payments (USDA)	56,407,000	50,659,000	−5,748,000
Building operations and maintenance	22,429,000	21,297,000	−1,132,000
Advisory committees (USDA)	2,294,000	1,494,000	−800,000
Hazardous waste management	10,000,000	5,000,000	−5,000,000
Departmental administration	26,542,000	25,922,000	−620,000
Working Capital Fund	6,000,000	4,708,000	−1,292,000
Office of the Assistant Secretary for Governmental and Public Affairs	408,000	408,000	
Office of Governmental and Public Affairs:			
Public affairs	7,940,000	7,883,000	−57,000
Congressional relations	500,000	497,000	−3,000
Intergovernmental affairs	479,000	479,000	
Total, Office of Governmental and Public Affairs	8,919,000	8,859,000	−60,000
Office of the Inspector General	51,442,000	50,491,000	−951,000
Office of the General Counsel	23,064,000	20,836,000	−2,228,000
Office of the Assistant Secretary for Economics	447,000	447,000	
Economic Research Service	49,771,000	49,336,000	−435,000
National Agricultural Statistics Service	64,086,000	63,588,000	−498,000
World Agricultural Outlook Board	1,906,000	1,820,000	−86,000
Office of the Assistant Secretary for Science and Education	432,000	432,000	
Agricultural Research Service	559,157,000	561,581,000	+2,424,000
Special fund	1,800,000	1,800,000	
Buildings and facilities	11,000,000	28,350,000	+17,350,000
Total, Agricultural Research Service	571,957,000	591,731,000	+19,774,000
Cooperative State Research Service	257,489,000	315,107,000	+57,618,000
Extension Service	299,542,000	361,370,000	+61,828,000
National Agricultural Library	13,599,000	14,268,000	+669,000
Office of the Assistant Secretary for Marketing and Inspection Services	421,000	421,000	
Animal and Plant Health Inspection Service:			
Salaries and expenses	294,243,000	331,207,000	+36,964,000
Buildings and facilities	2,847,000	2,546,000	−301,000
Total, Animal and Plant Health Inspection Service	297,090,000	333,753,000	+36,663,000
Food Safety and Inspection Service	405,680,000	404,954,000	−726,000
Federal Grain Inspection Service	8,255,000	8,115,000	−140,000
Inspection and Weighing Services *(limitation on administrative expenses, from fees collected)*	*(36,856,000)*	*(36,856,000)*	
Agricultural Cooperative Service	2,303,000	4,655,000	+2,352,000
Agricultural Marketing Service:			
Marketing Services	33,087,000	33,373,000	+286,000
(Limitation on administrative expenses, from fees collected)	*(31,701,000)*	*(34,000,000)*	*(+2,299,000)*
Funds for strengthening markets, income, and supply (Section 32) *(by transfer)*	*(7,911,000)*	*(7,811,000)*	*(−100,000)*

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-457, APPROVED SEPTEMBER 30, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
OFFICE OF THE INSPECTOR GENERAL			
Salaries and expenses	$29,639,000	$29,000,000	−$639,000
Total, title I, Department of Transportation:			
New budget *(obligational)* authority *(net)*	8,644,616,000	10,685,833,000	+2,041,217,000
Appropriations	(8,644,616,000)	(10,785,833,000)	(+2,141,217,000)
Rescission		(−100,000,000)	(−100,000,000)
(By transfer)	*(10,000,000)*	*(23,500,000)*	*(+13,500,000)*
(Limitations on general operating expenses)	*(223,901,000)*	*(217,350,000)*	*(−6,551,000)*
(Limitation on borrowing authority)	*(57,000,000)*	*(50,000,000)*	*(−7,000,000)*
(Limitations on obligations)	*(14,300,500,000)*	*(14,875,405,000)*	*(+574,905,000)*
(Limitation on cumulative obligations)	*(4,750,000)*	*(4,750,000)*	
(Limitation on working capital fund)	*(135,000,000)*	*(130,350,000)*	*(−4,650,000)*
(Limitations on direct loans)	*(47,850,000)*	*(46,000,000)*	*(−1,850,000)*
(Appropriations to liquidate contract authorizations)	*(14,900,500,000)*	*(14,470,500,000)*	*(−430,000,000)*
TITLE II—RELATED AGENCIES			
ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD			
Salaries and expenses	2,000,000	1,891,000	−109,000
NATIONAL TRANSPORTATION SAFETY BOARD			
Salaries and expenses	24,617,000	25,360,000	+743,000
INTERSTATE COMMERCE COMMISSION			
Salaries and expenses	44,216,000	43,115,000	−1,101,000
Payments for directed rail service *(limitation on obligations)*	*(475,000)*	*(475,000)*	
PANAMA CANAL COMMISSION			
Panama Canal Revolving Fund:			
(Administrative expenses)	*(50,287,000)*	*(50,287,000)*	
(Limitation on operating and capital expenses)		*(436,548,000)*	*(+436,548,000)*
DEPARTMENT OF THE TREASURY			
Rebate of Saint Lawrence Seaway Tolls *(Harbor Maintenance Trust Fund)*	10,800,000	10,700,000	−100,000
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY			
Interest payments	51,663,569	51,663,569	
Total, title II, Related Agencies:			
New budget *(obligational)* authority	133,296,569	132,729,569	−567,000
(Limitation on obligations)	*(475,000)*	*(475,000)*	
Panama Canal Revolving Fund:			
(Administrative expenses)	*(50,287,000)*	*(50,287,000)*	
(Limitation on operating and capital expenses)		*(436,548,000)*	*(+436,548,000)*
TITLE III—GENERAL PROVISIONS			
International Zaragosa Bridge (sec. 327a)		3,000,000	+3,000,000
Rescission (sec. 327b)		−3,000,000	−3,000,000
Alabama Feasibility Study (sec. 330b)		675,000	+675,000
Expressway safety improvement demonstration project (sec. 330c)		2,600,000	+2,600,000
Airport emergency relief (sec. 340)		100,000	+100,000

See footnotes at end of table, p. 2341.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-440, APPROVED SEPTEMBER 22, 1988

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
TITLE I—DEPARTMENT OF THE TREASURY			
Office of the Secretary:			
Salaries and expenses	$83,681,000	$59,618,000	−$24,063,000
International affairs		22,000,000	+22,000,000
Total, Office of the Secretary	83,681,000	81,618,000	−2,063,000
Federal Law Enforcement Training Center:			
Salaries and Expenses	26,525,000	34,664,000	+8,139,000
Acquisition, construction, improvements, and related expenses		20,000,000	+20,000,000
Total, Federal Law Enforcement Training Center	26,525,000	54,664,000	+28,139,000
Financial Management Service	280,461,000	277,230,000	−3,231,000
Bureau of Alcohol, Tobacco and Firearms	218,503,000	234,000,000	+15,497,000
United States Customs Service:			
Salaries and expenses	966,903,000	1,025,411,000	+58,508,000
Operations and maintenance, air interdiction program	142,262,000	142,262,000	
Customs forfeiture fund *(limitation on availability of deposits)*	10,000,000	10,000,000	
Customs services at small airports *(to be derived from fees collected)*	1,588,000	1,588,000	
Total, United States Customs Service	1,120,753,000	1,179,261,000	+58,508,000
United States Mint	47,869,000	47,000,000	−869,000
Bureau of the Public Debt:			
Administering the public debt	242,840,000	219,430,000	−23,410,000
Payment of Government losses in shipment	960,000	960,000	
Total, Bureau of the Public Debt	243,800,000	220,390,000	−23,410,000
Internal Revenue Service:			
Salaries and expenses	94,547,000	87,165,000	−7,382,000
Processing tax returns	1,850,134,000	1,740,353,000	−109,781,000
Examinations and appeals	1,864,819,000	1,932,441,000	+67,622,000
Investigation, collection, and taxpayer service	1,490,225,000	1,434,921,000	−55,304,000
Total, Internal Revenue Service	5,299,725,000	5,194,880,000	−104,845,000
United States Secret Service	352,000,000	357,500,000	+5,500,000
Total, title I, Department of the Treasury, new budget *(obligational)* authority	7,673,317,000	7,646,543,000	−26,774,000
TITLE II—POSTAL SERVICE			
Payment to the Postal Service Fund	527,482,000	436,417,000	−91,065,000
TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT			
Compensation of the President	250,000	250,000	
Office of Administration	16,900,000	16,850,000	−50,000
The White House Office	27,950,000	27,950,000	
Executive Residence at the White House	5,698,000	5,698,000	
Official Residence of the Vice President	253,000	258,000	
Special Assistance to the President	2,199,000	2,199,000	
Council of Economic Advisers	2,787,000	2,787,000	
Office of Policy Development	3,000,000	3,000,000	
National Critical Materials Council	178,000	225,000	+47,000
National Security Council	5,100,000	5,100,000	
Office of Management and Budget	39,780,000	39,640,000	−140,000
Office of Federal Procurement Policy	2,353,000	2,353,000	

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-440, APPROVED SEPTEMBER 22, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
Unanticipated needs	$1,000,000	$1,000,000	
Expenses of management improvement	5,900,000	1,000,000	−$4,900,000
Total, title III, Executive Office of the President, new budget *(obligational)* authority	113,353,000	108,310,000	−5,043,000
TITLE IV—INDEPENDENT AGENCIES			
Administrative Conference of the United States	1,865,000	1,865,000	
Advisory Commission on Intergovernmental Relations	1,275,000	1,040,000	−235,000
Advisory Committee on Federal Pay	205,000	205,000	
Committee for Purchase from the Blind and Other Severely Handicapped	862,000	862,000	
Federal Election Commission	15,433,000	15,433,000	
General Services Administration:			
Federal Buildings Fund:			
(Limitation on availability of revenue):			
Construction and acquisition of facilities	*(233,839,000)*	*(119,820,000)*	*(−114,019,000)*
Repairs and alterations	*(538,251,000)*	*(532,865,000)*	*(−5,386,000)*
Payment on purchase contracts	*(142,450,000)*	*(133,000,000)*	*(−9,450,000)*
Rental of space	*(1,200,000,000)*	*(1,177,532,000)*	*(−22,468,000)*
Real property operations	*(881,703,000)*	*(882,000,000)*	*(+297,000)*
Program direction and centralized services	*(49,740,000)*	*(49,000,000)*	*(−740,000)*
Design and construction services	*(136,698,000)*	*(130,000,000)*	*(−6,698,000)*
Total, Federal Buildings Fund *(limitations)*	*(3,182,681,000)*	*(3,024,217,000)*	*(−158,464,000)*
Federal supply service	47,829,000	47,000,000	−829,000
Federal property resources service	12,109,000	10,800,000	−1,309,000
Real property relocation	50,000,000	4,000,000	−46,000,000
General management and administration	122,774,000	120,774,000	−2,000,000
Information Resources Management Service	36,835,000	31,875,000	−4,960,000
Office of Inspector General	25,400,000	25,000,000	−400,000
Allowances and Office Staff for Former Presidents	1,431,000	1,431,000	
Expenses, presidential transition	3,000,000	3,000,000	
National defense stockpile transaction fund		30,000,000	+30,000,000
Total, General Services Administration	299,378,000	273,880,000	−25,498,000
National Archives and Records Administration	117,862,000	121,900,000	+4,038,000
Office of Personnel Management:			
Salaries and expenses:			
Appropriation	107,477,000	108,000,000	+523,000
(Limitation on adminstrative expenses)	*(77,017,000)*	*(77,017,000)*	
Government payment for annuitants, employees health benefits	2,374,414,000	2,374,414,000	
Payment to civil service retirement and disability fund	4,858,668,000	4,858,668,000	
Total, Office of Personnel Management	7,340,559,000	7,341,082,000	+523,000
Merit Systems Protection Board:			
Salaries and expenses:			
Appropriation	20,488,000	20,488,000	
(Limitation on adminstrative expenses)	*(1,400,000)*	*(1,400,000)*	
Office of Special Counsel	4,761,000	5,000,000	+239,000
Total, Merit Systems Protection Board	25,249,000	25,488,000	+239,000

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1989, PUBLIC LAW 100-440, APPROVED SEPTEMBER 22, 1988—Continued

Agency and item	Estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
Federal Labor Relations Authority	$17,540,000	$17,540,000	.....
Total, Federal personnel activities	7,383,348,000	7,384,110,000	+$762,000
United States Tax Court	29,345,000	29,345,000	.....
Total, title IV, Independent Agencies:			
New budget *(obligational)* authority	7,849,573,000	7,828,640,000	−20,933,000
(Limitations)	*(3,261,098,000)*	*(3,102,634,000)*	*(−158,464,000)*
Grand total:			
New budget *(obligational)* authority	16,163,725,000	16,019,910,000	−143,815,000
(Limitations)	*(3,261,098,000)*	*(3,102,634,000)*	*(−158,464,000)*

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

URGENT SUPPLEMENTAL APPROPRIATIONS ACT OF 1989 TO MEET THE DIRE EMERGENCY CREATED BY THE CRISIS OF DRUG ABUSE, PUBLIC LAW 100-690, APPROVED NOVEMBER 18, 1988—Continued

Agency and item	H. Doc. No. (unless otherwise indicated)	Supplemental estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
DEPARTMENT OF HEALTH AND HUMAN SERVICES				
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION				
Alcohol, drug abuse, and mental health			$283,000,000	+$283,000,000
FAMILY SUPPORT ADMINISTRATION				
Community services block grant: National youth sports program			3,000,000	+3,000,000
HUMAN DEVELOPEMENT SERVICE				
Substance abuse prevention and treatment			30,000,000	+30,000,000
Total, Department of Health and Human Services			316,000,000	+316,000,000
DEPARTMENT OF EDUCATION				
School Improvement Programs			108,000,000	+108,000,000
RELATED AGENCY				
ACTION: Operating expenses			2,000,000	+2,000,000
Total, Chapter II			428,000,000	+428,000,000
CHAPTER III				
DEPARTMENT OF HEALTH AND HUMAN SERVICES				
FOOD AND DRUG ADMINISTRATION				
Salaries and expenses			5,000,000	+5,000,000
CHAPTER IV				
DEPARTMENT OF TRANSPORTATION				
COAST GUARD				
Operating expenses			16,000,000	+16,000,000
Acquisition, construction, and improvements			100,000,000	+100,000,000
Total, Chapter IV, Department of Transportation			116,000,000	+116,000,000
CHAPTER V				
DEPARTMENT OF THE TREASURY				
Bureau of Alcohol, Tobacco and Firearms			7,000,000	+7,000,000
United States Customs Service:				
Salaries and expenses			8,500,000	+8,500,000
Operations and maintenance, Air Interdiction Program			7,000,000	+7,000,000
Total, United States Customs Service			15,500,000	+15,500,000
Total, Department of the Treasury			22,500,000	+22,500,000

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

URGENT SUPPLEMENTAL APPROPRIATIONS ACT OF 1989 TO MEET THE DIRE EMERGENCY CREATED BY THE CRISIS OF DRUG ABUSE, PUBLIC LAW 100-690, APPROVED NOVEMBER 18, 1988—Continued

Agency and item	H. Doc. No. (unless otherwise indicated)	Supplemental estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
EXECUTIVE OFFICE OF THE PRESIDENT				
Office of National Drug Control Policy		.....	$3,500,000	+$3,500,000
Total, Chapter V		.....	26,000,000	+26,000,000
Grand total, new budget *(obligational)* authority, Urgent Supplemental, 1989		.....	991,400,000	+991,400,000

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

BUDGET RESCISSION ACT, 1988, PUBLIC LAW 100-251, APPROVED FEBRUARY 16, 1988

Agency and item	H. Doc. No. (unless otherwise indicated)	Amounts proposed for rescission	Amounts rescinded	Increase (+) or decrease (−), amounts rescinded compared with proposals
FUNDS APPROPRIATED TO THE PRESIDENT				
DEPARTMENT OF STATE				
Migration and refugee assistance			$8,000,000	+$8,000,000

VIIIa. RECAPITULATION OF ITEMIZED ESTIMATES AND NEW BUDGET (OBLIGATIONAL) AUTHORITY, 100TH CONGRESS, 2D SESSION

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7 "Compilers' Notes," p. III).]

Act and title	Regular budget estimates, fiscal year 1989	Budget amendments and supplemental estimates, fiscal year 1989 and prior years		Total budget estimates	New budget (obligational) authority appropriated, 100th Cong. 2d sess.	Increase (+) or decrease (−), appropriations compared with estimates
		Increases	Decreases			
REGULAR ANNUAL APPROPRIATION ACTS						
Departments of Commerce, Justice, and State, and the Judiciary, and related agencies	$15,472,518,000	$125,145,000	$93,659,000	$15,504,004,000	$14,849,392,000	−$654,612,000
Department of Commerce	2,401,467,000		5,000,000	2,396,467,000	2,699,162,000	+302,695,000
Department of Justice	5,982,031,000	125,145,000	88,659,000	6,018,517,000	5,389,469,000	−629,048,000
Department of State	2,749,167,000			2,749,167,000	2,732,341,000	−16,826,000
The Judiciary	1,721,933,000			1,721,933,000	1,398,973,000	−322,960,000
Related agencies	2,617,920,000			2,617,920,000	2,629,447,000	+11,527,000
Department of Defense	283,159,445,000			283,159,445,000	282,412,350,000	−747,095,000
Military personnel	78,399,300,000			78,399,300,000	78,489,954,000	+90,654,000
Operation and maintenance	85,633,900,000			85,633,900,000	85,293,742,000	−340,158,000
Procurement	79,874,500,000			79,874,500,000	79,323,842,000	−550,658,000
Research, development, test, and evaluation	38,157,100,000			38,157,100,000	37,663,867,000	−493,233,000
Revolving and management funds	763,500,000			763,500,000	688,500,000	−75,000,000
Chemical agents and munitions destruction, Defense	162,900,000			162,900,000	179,500,000	+16,600,000
Related agencies	168,245,000			168,245,000	664,145,000	+495,900,000
General provisions					108,800,000	+108,800,000
District of Columbia	541,596,000			541,596,000	536,910,000	−4,686,000
Federal funds to the District of Columbia	541,596,000			541,596,000	536,910,000	−4,686,000
(District of Columbia funds, fiscal year 1989 - net)	*(3,206,916,000)*			*(3,206,916,000)*	*(3,206,095,000)*	*(−821,000)*
(District of Columbia funds, fiscal year 1988 supplemental - net)		*(231,584,000)*	*(50,707,000)*	*(180,877,000)*	*(135,877,000)*	*(−45,000,000)*

VIIIa. RECAPITULATION OF ITEMIZED ESTIMATES AND NEW BUDGET (OBLIGATIONAL) AUTHORITY, 100TH CONGRESS, 2D SESSION—Continued

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7 "Compilers' Notes," p. III).]

Act and title	Regular budget estimates, fiscal year 1989	Budget amendments and supplemental estimates, fiscal year 1989 and prior years		Total budget estimates	New budget (obligational) authority appropriated, 100th Cong. 2d sess.	Increase (+) or decrease (−), appropriations compared with estimates
		Increases	Decreases			
REGULAR ANNUAL APPROPRIATION ACTS—Continued						
Energy and water development	$16,868,547,000			$16,868,547,000	$16,555,995,000	−$312,552,000
Department of Defense—Civil	3,308,098,000			3,308,098,000	3,236,261,000	−71,837,000
Department of the Interior	971,988,000			971,988,000	993,621,000	+21,633,000
Department of Energy	12,309,066,000			12,309,066,000	11,880,112,000	−428,954,000
Independent agencies	279,395,000			279,395,000	446,001,000	+166,606,000
Foreign operations, export financing, and related programs	14,307,969,987			14,307,969,987	14,290,032,000	−17,937,987
Multilateral Economic Assistance	1,524,349,987			1,524,349,987	1,540,744,730	+16,394,743
Bilateral Economic Assistance	6,107,531,000			6,107,531,000	6,270,948,270	+163,417,270
Military Assistance	5,950,689,000			5,950,689,000	5,758,339,000	−192,350,000
Export Assistance	725,400,000			725,400,000	720,000,000	−5,400,000
Department of Housing and Urban Development—Independent agencies *(net)*	59,000,641,000	$32,381,000	$12,750,000	59,020,272,000	59,386,045,000	+365,773,000
Department of Housing and Urban Development	11,965,685,000			11,965,685,000	13,124,554,000	+1,158,869,000
Rescissions	*(−353,500,000)*			*(−353,500,000)*	−353,500,000	[1] −353,500,000
Independent agencies	47,034,956,000	32,381,000	12,750,000	47,054,587,000	46,639,991,000	−414,596,000
Rescission					−25,000,000	−25,000,000
Corporations	*(33,609,000)*			*(33,609,000)*	*(33,609,000)*	
Department of the Interior and related agencies *(net)*	11,642,981,000			11,642,981,000	10,893,516,000	−749,465,000
Department of the Interior	3,972,904,000			3,972,904,000	4,607,623,000	+634,719,000
Rescission					−30,000,000	−30,000,000
Related agencies	7,670,077,000			7,670,077,000	6,355,893,000	−1,314,184,000
Rescission					−40,000,000	−40,000,000
Departments of Labor, Health and Human Services, and Education, and related agencies	132,783,474,000	5,817,590,000		138,601,064,000	140,374,129,000	+1,773,065,000
Department of Labor	6,989,812,000			6,989,812,000	6,462,681,000	−527,131,000
Department of Health and Human Services	109,571,374,000			109,571,374,000	111,147,857,000	+1,576,483,000
Department of Education	15,267,833,000	5,816,590,000		21,084,423,000	21,724,362,000	+639,939,000
Related agencies	954,455,000	1,000,000		955,455,000	1,039,229,000	+83,774,000

Legislative branch	1,960,088,200	4,241,000		1,964,329,200	1,804,624,200	−159,705,000
Congressional Operations	1,315,206,200	4,241,000		1,319,447,200	1,231,850,200	−87,597,000
Other agencies	644,882,000			644,882,000	572,774,000	−72,108,000
Military construction *(net)*	8,797,900,000			8,797,900,000	8,797,000,000	−900,000
Military construction and family housing	8,797,900,000			8,797,900,000	8,816,548,000	+18,648,000
Rescission					−19,548,000	−19,548,000
Rural developement, agriculture, and related agencies	42,539,915,000			42,539,915,000	42,512,839,000	−27,076,000
Agricultural programs	12,385,788,000			12,385,788,000	11,531,383,000	−854,405,000
Rural development programs	12,102,196,000			12,102,196,000	12,437,106,000	+334,910,000
Domestic food programs	16,191,249,000			16,191,249,000	16,603,385,000	+412,136,000
International programs	1,116,229,000			1,116,229,000	1,199,836,000	+83,607,000
Related agencies	744,453,000			744,453,000	741,129,000	−3,324,000
Department of Transportation and related agencies *(net)*	8,777,912,569			8,777,912,569	10,793,766,569	+2,015,854,000
Department of Transportation	8,644,616,000			8,644,616,000	10,785,833,000	+2,141,217,000
Rescission					−100,000,000	−100,000,000
Related agencies	133,296,569			133,296,569	132,729,569	−567,000
General provisions					−21,796,000	−21,796,000
Rescission					−3,000,000	−3,000,000
Treasury, Postal Service, and general government	16,163,725,000			16,163,725,000	16,019,910,000	−143,815,000
Department of the Treasury	7,673,317,000			7,673,317,000	7,646,543,000	−26,774,000
United States Postal Service	527,482,000			527,482,000	436,417,000	−91,065,000
Executive Office of the President	113,353,000			113,353,000	108,310,000	−5,043,000
Independent agencies	7,849,573,000			7,849,573,000	7,828,640,000	−20,933,000
Net total, regular annual appropriation acts	612,016,712,756	5,979,357,000	106,409,000	617,889,660,756	619,226,508,769	+1,336,848,013
SUPPLEMENTAL APPROPRIATION ACTS						
Assistance to Central America, transfer of funds, 1988 (P.L. 100-276)					*(47,900,000)*	*(+47,900,000)*
Emergency Mandatory Veterans Supplemental, 1988 (P.L. 100-304)		551,600,000		551,600,000	709,100,000	+157,500,000
Dire Emergency Supplemental Appropriations Act 1988, (P.L. 100-393)		498,100,000		498,100,000	613,209,000	+115,109,000
Rescission					−12,000,000	−12,000,000
Urgent Supplemental Appropriations Act of 1989 to Meet the Dire Emergency Created by the Crisis of Drug Abuse (P.L. 100-690)					991,400,000	+991,400,000
Net total, supplemental appropriation acts		1,049,700,000		1,049,700,000	2,301,709,000	+1,252,009,000

See footnotes at end of table, p. 2355.

VIIIa. RECAPITULATION OF ITEMIZED ESTIMATES AND NEW BUDGET (OBLIGATIONAL) AUTHORITY, 100TH CONGRESS, 2D SESSION—Continued

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7 "Compilers' Notes," p. III).]

Act and title	Regular budget estimates, fiscal year 1989	Budget amendments and supplemental estimates, fiscal year 1989 and prior years		Total budget estimates	New budget (obligational) authority appropriated, 100th Cong. 2d sess.	Increase (+) or decrease (−), appropriations compared with estimates
		Increases	Decreases			
RESCISSION ACT						
Budget Rescission Act, 1988 (P.L. 100-251)					−$8,000,000	−$8,000,000
Estimates not considered (see Table VIIIh)	$96,060,138,000	$605,423,000	$28,722,000	$96,636,839,000		−96,636,839,000
Total, regular annual, supplemental and rescission acts	708,076,850,756	7,634,480,000	135,131,000	715,576,199,756	621,520,217,769	−94,055,981,987
APPROPRIATIONS IN OTHER ACTS						
Legislative acts:						
Federal funds:						
Permanent appropriations:						
Congaree Swamp National Monument Expansion and Wilderness Act (P.L. 100-524):						
Department of the Interior:						
Payments to States from receipts under Mineral Leasing Act					14,000,000	+14,000,000
Indian Reorganization Act Amendments of 1988 (P.L. 100-581):						
Department of the Interior:						
Miscellaneous payments to Indians					1,000,000	+1,000,000
Anti-Drug Abuse Act of 1988 (P.L. 100-690):						
Department of Justice:						
Assets Forfeiture Fund					50,000,000	+50,000,000
Department of the Treasury:						
Customs Forfeiture Fund					15,000,000	+15,000,000
Subtotal, Federal funds: Permanent appropriations					80,000,000	+80,000,000

Borrowing authority:						
Disaster Assistance Act of 1988 (P.L. 100-387):						
Department of Agriculture:						
Agricultural Credit Insurance Fund					40,000,000	+40,000,000
Commodity Credit Corporation Fund					370,000,000	+370,000,000
United States-Canada Free Trade Agreement Implementation Act of 1988 (P.L. 100-449):						
Department of Agriculture:						
Commodity Credit Corporation Fund					2,000,000	+2,000,000
Subtotal, Federal funds: Borrowing authority					412,000,000	+412,000,000
Total, Federal funds					492,000,000	+492,000,000
Trust funds:						
Permanent appropriations:						
Medicare Catastrophic Coverage Act of 1988 (P.L. 100-360):						
Department of Health and Human Services:						
Federal Hospital Insurance Trust Fund	1,660,000,000			1,660,000,000	−43,000,000	−1,703,000,000
Federal Supplementary Medical Insurance Trust Fund	−285,000,000			−285,000,000	1,140,000,000	+1,425,000,000
Hospital Insurance Reserve Fund					330,000,000	+330,000,000
Veterans' Benefits and Services Act of 1988 (P.L. 100-322):						
Veterans Administration:						
General Post Fund, National Homes					−6,000,000	−6,000,000
Relief for the Coushatta Tribe of Louisiana (P.L. 100-411):						
Department of the Interior:						
Miscellaneous trust funds					1,000,000	+1,000,000
Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647):						
Department of Health and Human Services:						
Federal Hospital Insurance Trust Fund					−4,000,000	−4,000,000
Federal Old-Age and Survivors Insurance Trust Fund					−14,000,000	−14,000,000
Federal Disability Insurance Trust Fund					−1,000,000	−1,000,000
Department of Labor:						
Unemployment Trust Fund					8,000,000	+8,000,000
Railroad Retirement Board:						
Railroad Industry Pension Fund					−1,000,000	−1,000,000
Arizona-Idaho Conservation Act of 1988 (P.L. 100-696):						
Legislative Branch:						
Capitol Preservation Fund					20,000,000	+20,000,000

VIIIa. RECAPITULATION OF ITEMIZED ESTIMATES AND NEW BUDGET (OBLIGATIONAL) AUTHORITY, 100TH CONGRESS, 2D SESSION—Continued

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7 "Compilers' Notes," p. III).]

Act and title	Regular budget estimates, fiscal year 1989	Budget amendments and supplemental estimates, fiscal year 1989 and prior years		Total budget estimates	New budget (obligational) authority appropriated, 100th Cong. 2d sess.	Increase (+) or decrease (−), appropriations compared with estimates
		Increases	Decreases			
APPROPRIATIONS IN OTHER ACTS—Continued						
Legislative acts—Continued:						
Trust funds—Continued:						
Retirement and Survivor Annuities for Bankruptcy Judges Act of 1988 (P.L. 100-659):						
The Judiciary:						
Judicial Survivors' Annuities Fund					$1,000,000	+$1,000,000
Judicial Officers Retirement Fund					57,000,000	+57,000,000
Total, trust funds	$1,375,000,000			$1,375,000,000	1,488,000,000	+113,000,000
Total, Appropriations in Legislative Acts [2]	1,375,000,000			1,375,000,000	[2]1,980,000,000	+605,000,000
Private appropriation acts (see p. 2219):						
Fiscal year 1988					501,269	+501,269
Fiscal year 1989					499,151	+499,151
Total, Private appropriations acts					1,000,420	+1,000,420
Total, appropriations in other acts	1,375,000,000			1,375,000,000	1,981,000,420	+606,000,420
Net total, regular annual, supplemental, rescission and other acts	709,451,850,756	$7,634,480,000	$135,131,000	716,951,199,756	623,501,218,189	−93,449,981,567
New budget *(obligational)* authority	(709,451,850,756)	(7,634,480,000)	(135,131,000)	(716,951,199,756)	(624,092,266,189)	(−92,858,933,567)
Rescissions of unobligated balances	*(−353,500,000)*			*(−353,500,000)*	(−591,048,000)	[1](−591,048,000)
PERMANENT APPROPRIATIONS [3]						
Federal funds:						
Department of Agriculture:						
Food and Nutrition Service	4,093,272,000			4,093,272,000	4,093,272,000	
Department of Defense:						
Military Retirement	10,648,000,000			10,648,000,000	10,648,000,000	
Department of Health and Human Services:						
Health Care Financing Administration	8,541,000,000			8,541,000,000	8,541,000,000	
Social Security Administration	9,503,165,000			9,503,165,000	9,503,165,000	

Department of the Treasury:						
Interest on the public debt	220,215,141,000			220,215,141,000	220,215,141,000	
Internal Revenue Service	5,690,000,000			5,690,000,000	5,690,000,000	
Independent Agencies:						
Office of Personnel Management	12,026,695,000			12,026,695,000	12,026,695,000	
Postal Service	2,236,062,000			2,236,062,000	2,236,062,000	
Railroad Retirement Board	2,914,300,000			2,914,300,000	2,914,300,000	
All other	14,942,600,000			14,942,600,000	14,942,600,000	
Total, Federal funds	290,810,235,000			290,810,235,000	290,810,235,000	
Trust funds:						
Funds Appropriated to the President:						
Foreign assistance	6,853,300,000			6,853,300,000	6,853,300,000	
Department of Defense:						
Military Retirement	35,059,600,000			35,059,600,000	35,059,600,000	
Department of Health and Human Services:						
Health Care Financing Administration	115,649,000,000			115,649,000,000	115,649,000,000	
Social Security Administration	279,682,434,000			279,682,434,000	279,682,434,000	
Department of Labor:						
Employment and Training Administration	26,100,010,000			26,100,010,000	26,100,010,000	
Department of Transportation:						
Federal Highway Administration	13,775,624,000			13,775,624,000	13,775,624,000	
Veterans Administration	1,629,325,000			1,629,325,000	1,629,325,000	
Independent agencies:						
Office of Personnel Management	48,004,756,000			48,004,756,000	48,004,756,000	
Railroad Retirement Board	9,677,738,000			9,677,738,000	9,677,738,000	
All other	5,808,796,000			5,808,796,000	5,808,796,000	
Total, trust funds	542,240,583,000			542,240,583,000	542,240,583,000	
Total, permanent appropriations, Federal and trust funds	833,050,818,000			833,050,818,000	833,050,818,000	
Net total, regular annual, supplemental, rescission and other acts and permanent appropriations	1,542,502,668,756	7,634,480,000	135,131,000	1,550,002,017,756	1,456,552,036,189	−93,449,981,567
Adjustments for interfund and intragovernmental transactions (see "Compilers' Notes", p. IV)	−217,979,050,000			−217,979,050,000	−217,979,050,000	
Net total for session	1,324,523,618,756	7,634,480,000	135,131,000	1,332,022,967,756	1,238,572,986,189	−93,449,981,567

[1] Reflects actual recission, rather than comparison with request.

[2] Section 401 of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344) requires that all borrowing and contracting authority (so called "backdoor authority") enacted after March 3, 1975, be subject to subsequent appropriation action with certain exceptions which are listed under Sec. 401(d) of the Act (see p. 1956 in the 1974-1975 volume for text of Sec. 401(d)). This amount represents budget authority which falls within those exceptions.

[3] Subject to revision as better data becomes available.

VIII. ITEMIZED COMPARISONS OF BUDGET ESTIMATES, APPROPRIATIONS AND RESCISSIONS ARRANGED BY ACTS, 100TH CONGRESS, 2D SESSION—Continued

URGENT SUPPLEMENTAL APPROPRIATIONS ACT OF 1989 TO MEET THE DIRE EMERGENCY CREATED BY THE CRISIS OF DRUG ABUSE, PUBLIC LAW 100-690, APPROVED NOVEMBER 18, 1988

Agency and item	H. Doc. No. (unless otherwise indicated)	Supplemental estimates of new budget (obligational) authority, 1989	New budget (obligational) authority appropriated, 1989	Increase (+) or decrease (−), appropriations compared with estimates
CHAPTER I				
DEPARTMENT OF JUSTICE				
LEGAL ACTIVITIES				
Salaries and expenses, general legal activities		.....	$1,800,000	+$1,800,000
Salaries and expenses, United States Attorneys		.....	39,000,000	+39,000,000
Salaries and expenses, United States Marshals Service		.....	16,400,000	+16,400,000
Support of United States Prisoners		.....	16,400,000	+16,400,000
Assets forfeiture fund		.....	30,000,000	+30,000,000
Total, legal activities		.....	103,600,000	+103,600,000
FEDERAL BUREAU OF INVESTIGATION				
Salaries and expenses		.....	15,000,000	+15,000,000
DRUG ENFORCEMENT ADMINISTRATION				
Salaries and expenses		.....	30,000,000	+30,000,000
IMMIGRATION AND NATURALIZATION SERVICE				
Salaries and expenses		.....	26,200,000	+26,200,000
FEDERAL PRISON SYSTEM				
Buildings and facilities		.....	95,600,000	+95,600,000
OFFICE OF JUSTICE PROGRAMS				
Justice Assistance		.....	90,000,000	+90,000,000
Total, Department of Justice		.....	360,400,000	+360,400,000
DEPARTMENT OF STATE				
ADMINISTRATION OF FOREIGN AFFAIRS				
Salaries and expenses		.....	5,000,000	+5,000,000
THE JUDICIARY				
COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES				
Salaries and expenses		.....	35,000,000	+35,000,000
Defender services		.....	15,000,000	+15,000,000
Fees of jurors and commissioners		.....	1,000,000	+1,000,000
Total, the Judiciary		.....	51,000,000	+51,000,000
Total, Chapter I		.....	416,400,000	+416,400,000
CHAPTER II				
DEPARTMENT OF LABOR				
DEPARTMENTAL MANAGEMENT				
Employment assistance programs		.....	2,000,000	+2,000,000

VIIIb. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS, FISCAL YEAR 1989, ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS, 100TH CONGRESS, 2D SESSION

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7, "Compilers' Notes," p. III). Basically, the figures for permanent appropriations are taken from the February 1988 Budget and, since many are *indefinite*, are subject to revision as better data become available.]

Department or establishment	Original budget estimates, fiscal year 1989	Budget amendments and supplemental estimates, fiscal year 1989		Total budget estimates, fiscal year 1989	New budget (obligational) authority appropriated, 100th Cong. 2d sess. (table IVa)	Increase (+) or decrease (−), appropriations compared with estimates
		Increases	Decreases			
Department of Agriculture:						
Regular annual appropriation acts	$43,404,816,000			$43,404,816,000	$43,656,721,000	+$251,905,000
Rescission					−40,000,000	−40,000,000
Legislative acts: Federal funds [1]					[1] 412,000,000	+412,000,000
Permanent appropriations:						
Federal funds	[2] 7,313,114,000			[2] 7,313,114,000	[2] 7,313,114,000	
(Authority to borrow)	*(2,282,292,000)*			*(2,282,292,000)*	*(2,282,292,000)*	
Trust funds	400,435,000			400,435,000	400,435,000	
Total, Department of Agriculture *(net)*	51,118,365,000			51,118,365,000	51,742,270,000	+623,905,000
Department of Commerce:						
Regular annual appropriation act	2,401,467,000		$5,000,000	2,396,467,000	2,699,162,000	+302,695,000
Permanent appropriations:						
Federal funds	56,300,000			56,300,000	56,300,000	
Trust funds	49,200,000			49,200,000	49,200,000	
Total, Department of Commerce	2,506,967,000		5,000,000	2,501,967,000	2,804,662,000	+302,695,000

See footnotes at end of table p. 2364.

VIIIb. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS, FISCAL YEAR 1989, ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS, 100TH CONGRESS, 2D SESSION—Continued

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7, "Compilers' Notes," p. III). Basically, the figures for permanent appropriations are taken from the February 1988 Budget and, since many are *indefinite*, are subject to revision as better data become available.]

Department or establishment	Original budget estimates, fiscal year 1989	Budget amendments and supplemental estimates, fiscal year 1989		Total budget estimates, fiscal year 1989	New budget (obligational) authority appropriated, 100th Cong. 2d sess. (table IVa)	Increase (+) or decrease (−), appropriations compared with estimates
		Increases	Decreases			
Department of Defense—Civil:						
Regular annual appropriation acts	$3,371,151,000			$3,371,151,000	$3,301,524,000	−$69,627,000
Permanent appropriations:						
Federal funds	10,661,050,000			10,661,050,000	10,661,050,000	
Trust funds	35,556,505,000			35,556,505,000	35,556,505,000	
Total, Department of Defense—Civil	49,588,706,000			49,588,706,000	49,519,079,000	−69,627,000
Department of Defense—Military:						
Regular annual appropriation acts	291,789,100,000			291,789,100,000	[3] 291,060,753,000	−728,347,000
Rescission					−19,548,000	−19,548,000
Appropriated during 99th Cong., 2d sess. for fiscal year 1989	*(162,000,000)*			*(162,000,000)*	[4] *(214,000,000)*	*(+52,000,000)*
Permanent appropriations:						
Federal funds	217,000,000			217,000,000	217,000,000	
(Authority to borrow)	*(3,000,000)*			*(3,000,000)*	*(3,000,000)*	
Trust funds	24,200,000			24,200,000	24,200,000	
Total, Department of Defense—Military *(net)*	292,030,300,000			292,030,300,000	291,282,405,000	−747,895,000
District of Columbia—Federal Funds:						
Regular annual appropriation act	541,596,000			541,596,000	536,910,000	−4,686,000
Appropriated during 100th Cong., 1st sess. for fiscal year 1989					[4] *(20,000,000)*	*(+20,000,000)*
Permanent appropriations: Federal funds	20,000,000			20,000,000	20,000,000	
Total, District of Columbia—Federal Funds	561,596,000			561,596,000	556,910,000	−4,686,000
(District of Columbia—Payable from District revenues:)						
(Regular annual appropriation act - net)	*(3,206,916,000)*			*(3,206,916,000)*	*(3,206,095,000)*	*(−821,000)*
Department of Education:						
Regular annual appropriation acts	15,335,486,000	$5,816,590,000		21,152,076,000	21,795,915,000	+643,339,000
Supplemental appropriation act					108,000,000	+108,000,000
Estimates not considered (see Table VIIIh)			$28,722,000	−28,722,000		+28,722,000

Legislative acts:						
Federal funds [1]					[1] 15,000,000	+15,000,000
Trust funds [1]					[1] 1,000,000	+1,000,000
Permanent appropriations:						
Federal funds	1,031,143,000			1,031,143,000	1,031,143,000	
(Authority to borrow)	*(1,300,000)*			*(1,300,000)*	*(1,300,000)*	
(Contract authority)	*(30,000,000)*			*(30,000,000)*	*(30,000,000)*	
Trust funds	611,415,000			611,415,000	611,415,000	
Total, Department of the Interior *(net)*	6,587,450,000			6,587,450,000	7,229,802,000	+642,352,000
The Judiciary:						
Regular annual appropriation act	1,716,583,000			1,716,583,000	1,393,790,000	−322,793,000
Supplemental appropriation act					51,000,000	+51,000,000
Legislative acts: Trust funds [1]					[1] 58,000,000	+58,000,000
Permanent appropriations: Trust funds	15,735,000			15,735,000	15,735,000	
Total, The Judiciary	1,732,318,000			1,732,318,000	1,518,525,000	−213,793,000
Department of Justice:						
Regular annual appropriation act	5,982,031,000	125,145,000	88,659,000	6,018,517,000	5,389,469,000	−629,048,000
Supplemental appropriation act					360,400,000	+360,400,000
Legislative acts: Federal funds [1]					[1] 50,000,000	+50,000,000
Permanent appropriations: Federal funds	256,843,000			256,843,000	256,843,000	
Total, Department of Justice	6,238,874,000	125,145,000	88,659,000	6,275,360,000	6,056,712,000	−218,648,000
Department of Labor:						
Regular annual appropriation act	6,989,812,000			6,989,812,000	6,462,681,000	−527,131,000
Supplemental appropriation act					2,000,000	+2,000,000
Legislative acts: Trust funds [1]					[1] 8,000,000	+8,000,000
Permanent appropriations: Trust funds	26,187,010,000			26,187,010,000	26,187,010,000	
Total, Department of Labor	33,176,822,000			33,176,822,000	32,659,691,000	−517,131,000
Legislative Branch:						
Regular annual appropriation act	1,960,088,200	4,241,000		1,964,329,200	1,802,624,200	−161,705,000
Legislative acts: Trust funds [1]					[1] 20,000,000	+20,000,000
Permanent appropriations:						
Federal funds	136,992,000			136,992,000	136,992,000	
Trust funds	7,540,000			7,540,000	7,540,000	
Total, Legislative Branch	2,104,620,200	4,241,000		2,108,861,200	1,967,156,200	−141,705,000
National Aeronautics and Space Administration:						
Regular annual appropriation act	11,488,000,000			11,488,000,000	10,701,000,000	−787,000,000
Rescission					−25,000,000	−25,000,000
Total, National Aeronautics and Space Administration *(net)*	11,488,000,000			11,488,000,000	10,676,000,000	−812,000,000

See footnotes at end of table p. 2364.

Department of Transportation:						
Regular annual appropriation acts	8,829,467,000			8,829,467,000	10,941,038,000	+2,111,571,000
Rescissions					−103,000,000	−103,000,000
Supplemental appropriation act					116,000,000	+116,000,000
Permanent appropriations:						
Federal funds	75,161,000			75,161,000	75,161,000	
(Authority to borrow)	*(69,461,000)*			*(69,461,000)*	*(69,461,000)*	
Trust funds	16,852,569,000			16,852,569,000	16,852,569,000	
(Contract authority)	*(16,847,929,000)*			*(16,847,929,000)*	*(16,847,929,000)*	
Total, Department of Transportation *(net)*	25,757,197,000			25,757,197,000	27,881,768,000	+2,124,571,000
Department of the Treasury:						
Regular annual appropriation acts	7,859,117,000			7,859,117,000	7,832,243,000	−26,874,000
Supplemental appropriation act					22,500,000	+22,500,000
Legislative acts: Federal funds [1]					[1] 15,000,000	+15,000,000
Private appropriation acts					499,151	+499,151
Permanent appropriations:						
Federal funds	226,720,957,000			226,720,957,000	226,720,957,000	
Trust funds	17,458,000			17,458,000	17,458,000	
Total, Department of the Treasury	234,597,532,000			234,597,532,000	234,608,657,151	+11,125,151
Veterans Administration:						
Regular annual appropriation act	27,907,437,000	$32,381,000	$12,750,000	27,927,068,000	28,151,068,000	+224,000,000
Legislative acts: Trust funds [1]					[1] −6,000,000	−6,000,000
Permanent appropriations: Trust funds	1,629,325,000			1,629,325,000	1,629,325,000	
Total, Veterans Administration	29,536,762,000	32,381,000	12,750,000	29,556,393,000	29,774,393,000	+218,000,000
Grand total, new budget *(obligational)* authority *(net)*	1,428,659,523,756	6,584,780,000	135,131,000	1,435,109,172,756	1,439,101,800,920	+3,992,628,164
Consisting of—						
Regular annual appropriation acts	594,233,705,756	5,979,357,000	106,409,000	600,106,653,756	603,650,131,769	+3,543,478,013
Rescissions	*(−353,500,000)*			*(−353,500,000)*	−571,048,000	[6] −571,048,000
Supplemental appropriation act					991,400,000	+991,400,000
Estimates not considered (see Table VIIIh)		605,423,000	28,722,000	576,701,000		−576,701,000
Appropriated during prior Congressional sessions for fiscal year 1989	*(85,261,423,000)*			*(85,261,423,000)*	[4] *(14,747,000,000)*	*(−70,514,423,000)*
Appropriations in legislative acts:						
Federal funds [1]					[1] 492,000,000	+492,000,000
Trust funds [1]	1,375,000,000			1,375,000,000	[1] 1,488,000,000	+113,000,000
Private appropriation acts					499,151	+499,151

See footnotes at end of table p. 2364.

VIIIb. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS, FISCAL YEAR 1989, ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS, 100TH CONGRESS, 2D SESSION—Continued

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7, "Compilers' Notes," p. III). Basically, the figures for permanent appropriations are taken from the February 1988 Budget and, since many are *indefinite*, are subject to revision as better data become available.]

Department or establishment	Original budget estimates, fiscal year 1989	Budget amendments and supplemental estimates, fiscal year 1989		Total budget estimates, fiscal year 1989	New budget (obligational) authority appropriated, 100th Cong. 2d sess. (table IVa)	Increase (+) or decrease (−), appropriations compared with estimates
		Increases	Decreases			
Consisting of—Continued—						
Permanent appropriations:						
Federal funds	$290,810,235,000			$290,810,235,000	[7] $290,810,235,000	
(Authority to borrow)	*(9,300,050,000)*			*(9,300,050,000)*	*(9,300,050,000)*	
(Contract authority)	*(30,000,000)*			*(30,000,000)*	*(30,000,000)*	
Trust funds	542,240,583,000			542,240,583,000	[7] 542,240,583,000	
(Authority to borrow)	*(27,000,000)*			*(27,000,000)*	*(27,000,000)*	
(Contract authority)	*(23,695,929,000)*			*(23,695,929,000)*	*(23,695,929,000)*	
Subtotal *(net)*	1,428,659,523,756	$6,584,780,000	$135,131,000	1,435,109,172,756	1,439,101,800,920	+$3,992,628,164
Less adjustments for interfund and intragovernmental transaction (see "Compilers' Notes", p. IV)	−217,979,050,000			−217,979,050,000	−217,979,050,000	
Net for fiscal year 1989 (100th Congress, 2d session)	1,210,680,473,756	6,584,780,000	135,131,000	1,217,130,122,756	1,221,122,750,920	+3,992,628,164

[1] Section 401 of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344) requires that all borrowing and contracting authority (so called "backdoor authority") enacted after March 3, 1975, be subject to subsequent appropriation action with certain exceptions which are listed under Sec. 401(d) of the Act (see p. 1956 in the 1974-1975 volume for text of Sec. 401(d)). This amount represents budget authority which falls within those exceptions.

[2] The President's budget requested $15,533,425,000 as authority to borrow under "Permanent Federal funds". The Congress provided a current appropriation in lieu of the permanent borrowing authority. The current request was based on the President's estimate of $9,828,286,000 (see p. I-E3, Budget Appendix for fiscal year 1989. H. Doc. 100-153).

[3] Includes $50,300,000 provided in the Military Construction Appropriations Act, 1989 (P.L. 100-447) "for construction, rebuilding and improvement of shore facilities of the United States Coast Guard", an agency of the Department of Transportation (see p. 350, volume 1).

[4] Included under "Permanent appropriations, Federal funds".

[5] Excludes $643,196,000 requested under "Permanent appropriations, Federal funds". Reestimated by the Congressional Budget Office at a level of $939,500,000, this amount was considered as current appropriations in the Foreign Operations, Export Financing, and Related Programs Act, 1989 (P.L. 100-461) (see p. 173, volume 1).

[6] Reflects actual rescission, rather than comparison with request.

[7] Subject to revision as better data becomes available.

VIIIc. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS, FISCAL YEAR 1988, ARRANGED BY AGENCIES, 100TH CONGRESS, 2D SESSION

[NOTE.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations (see explanation, par. 7, "Compilers' Notes," p. III).]

(Amounts considered in regular annual and supplemental appropriation acts, rescission acts, and private acts)

Department or establishment	Budget estimates, fiscal year 1988	New budget (obligational) authority appropriated, fiscal year 1988	Increase (+) or decrease (−) appropriations compared with estimates
District of Columbia:			
(Payable from District revenues—net)	*($180,877,000)*	*($135,877,000)*	*(−$45,000,000)*
(New budget (obligational) authority)	*(231,584,000)*	*(169,416,000)*	*(−62,168,000)*
(Rescissions)	*(−50,707,000)*	*(−33,539,000)*	*(+17,168,000)*
Department of Health and Human Services		5,500,000	+5,500,000
Department of Justice		63,609,000	+63,609,000
Department of State *(net)*		16,000,000	+16,000,000
New budget *(obligational)* authority		(24,000,000)	(+24,000,000)
Rescission		(−8,000,000)	(−8,000,000)
Department of Transportation *(net)*			
New budget *(obligational)* authority		(12,000,000)	(+12,000,000)
Rescission		(−12,000,000)	(−12,000,000)
Veterans Administration	1,049,700,000	1,217,200,000	+167,500,000
Private appropriation acts		501,269	+501,269
Grand total *(net)*	1,049,700,000	1,302,810,269	+253,110,269
Consisting of—			
Supplemental appropriation acts *(net)*	1,049,700,000	1,302,309,000	+252,609,000
New budget *(obligational)* authority	(1,049,700,000)	(1,322,309,000)	(+272,609,000)
Rescissions		(−20,000,000)	(−20,000,000)
Private appropriation acts		501,269	+501,269
(District of Columbia funds—net)	*(180,877,000)*	*(135,877,000)*	*(−45,000,000)*

VIIId. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS, FISCAL YEAR 1990, ARRANGED BY AGENCIES, 100TH CONGRESS, 2D SESSION

[NOTE.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations (see explanation, par. 7, "Compilers' Notes," p. III).]

(Amounts considered in regular annual appropriation acts)

Department or establishment	Budget estimates, fiscal year 1990	New budget (obligational) authority appropriated, fiscal year 1990	Increase (+) or decrease (−), appropriations compared with estimates
DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1989			
DEPARTMENT OF ENERGY			
Clean coal technology:			
Procurement #3	$575,000,000	$575,000,000	
Procurement #2		135,000,000	+$135,000,000
SPR petroleum account		91,555,000	+91,555,000
Total, Department of Energy	575,000,000	801,555,000	+226,555,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES			
INDIAN HEALTH SERVICE			
Indian health services	1,003,007,000		−1,003,007,000
DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1989			
DEPARTMENT OF HEALTH AND HUMAN SERVICES			
HEALTH CARE FINANCING ADMINISTRATION			
Grants to States for Medicaid	9,000,000,000	9,000,000,000	
SOCIAL SECURITY ADMINISTRATION			
Special benefits for disabled coal miners	211,000,000	211,000,000	
Supplemental security income program	2,936,000,000	2,936,000,000	
FAMILY SUPPORT ADMINISTRATION			
Family support payments to States	2,644,000,000	2,700,000,000	+56,000,000
Subtotal, Department of Health and Human Services	14,791,000,000	14,847,000,000	+56,000,000
Estimates not considered (see Table VIIh)	80,093,138,000		−80,093,138,000
Total, Department of Health and Human Services	94,884,138,000	14,847,000,000	−80,037,138,000
Total, fiscal year 1990	96,462,145,000	15,648,555,000	−80,813,590,000
New budget *(obligational)* authority	(16,369,007,000)	(15,648,555,000)	(−720,452,000)
Estimates not considered	(80,093,138,000)		(−80,093,138,000)

VIIIe. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS, FISCAL YEAR 1991, ARRANGED BY AGENCIES, 100TH CONGRESS, 2D SESSION

[NOTE.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations (see explanation, par. 7, "Compilers' Notes," p. III).]

(Amounts considered in regular annual appropriation acts)

Department or establishment	Budget estimates, fiscal year 1991	New budget (obligational) authority appropriated, fiscal year 1991	Increase (+) or decrease (−), appropriations compared with estimates
DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1989			
DEPARTMENT OF ENERGY			
Clean coal technology:			
Procurement #4	$600,000,000		−$600,000,000
Procurement #2		$200,000,000	+200,000,000
Total, Department of Energy	600,000,000	200,000,000	−400,000,000
DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1989			
DEPARTMENT OF HEALTH AND HUMAN SERVICES			
Estimates not considered (see Table VIIIh)	15,967,000,000		−15,967,000,000
RELATED AGENCY			
Corporation for Public Broadcasting	214,000,000	298,870,000	+84,870,000
Total, fiscal year 1991	16,781,000,000	498,870,000	−16,282,130,000
New budget *(obligational)* authority	(814,000,000)	(498,870,000)	(−315,130,000)
Estimates not considered	(15,967,000,000)		(−15,967,000,000)

VIIIf. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS, FISCAL YEAR 1992, ARRANGED BY AGENCIES, 100TH CONGRESS, 2D SESSION

[NOTE.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations (see explanation, par. 7, "Compilers' Notes," p. III).]

(Amounts considered in regular annual appropriation acts)

Department or establishment	Budget estimates, fiscal year 1992	New budget (obligational) authority appropriated, fiscal year 1992	Increase (+) or decrease (−), appropriations compared with estimates
DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1988			
DEPARTMENT OF ENERGY			
Clean coal technology, fiscal year 1992	$600,000,000		−$600,000,000

90-600—91——37 (Vol. 2)

Permanent appropriations:						
Federal funds	7,148,000			7,148,000	7,148,000	
Trust funds	10,000			10,000	10,000	
Total, Department of Education	15,342,644,000	5,816,590,000	28,722,000	21,130,512,000	21,911,073,000	+780,561,000
Department of Energy:						
Regular annual appropriation acts	13,872,246,000			13,872,246,000	13,514,083,000	−358,163,000
Appropriated during 100th Cong., 1st sess. for fiscal year 1989	*(500,000,000)*			*(500,000,000)*	[4] *(525,000,000)*	*(+25,000,000)*
Permanent appropriations:						
Federal funds	662,909,000			662,909,000	662,909,000	
(Authority to borrow)	*(136,000,000)*			*(136,000,000)*	*(136,000,000)*	
Trust funds	144,867,000			144,867,000	144,867,000	
Total, Department of Energy	14,680,022,000			14,680,022,000	14,321,859,000	−358,163,000
Environmental Protection Agency:						
Regular annual appropriation act	4,779,000,000			4,779,000,000	5,155,125,000	+376,125,000
Permanent appropriations: Trust funds	10,000			10,000	10,000	
Total, Environmental Protection Agency	4,779,010,000			4,779,010,000	5,155,135,000	+376,125,000
Foreign Assistance:						
Regular annual appropriation act	13,857,129,987			13,857,129,987	13,767,242,000	−89,887,987
Permanent appropriations:						
Federal funds	[5] 22,000,000			[5] 22,000,000	[5] 22,000,000	
(Authority to borrow)	[5] *(22,000,000)*			[5] *(22,000,000)*	[5] *(22,000,000)*	
Trust funds	6,853,300,000			6,853,300,000	6,853,300,000	
(Contract authority)	*(6,848,000,000)*			*(6,848,000,000)*	*(6,848,000,000)*	
Total, Foreign Assistance	20,732,429,987			20,732,429,987	20,642,542,000	−89,887,987
General Government:						
Regular annual appropriation acts	6,823,696,569	1,000,000		6,824,696,569	6,792,393,569	−32,303,000
Supplemental appropriation act					5,500,000	+5,500,000
Appropriated during 99th Cong., 2d sess. and 100th Cong., 1st sess. for fiscal year 1989	*(133,100,000)*			*(133,100,000)*	[4] *(238,000,000)*	*(+104,900,000)*
Permanent appropriations:						
Federal funds	3,128,443,000			3,128,443,000	3,128,443,000	
(Authority to borrow)	*(2,874,435,000)*			*(2,874,435,000)*	*(2,874,435,000)*	
Trust funds	80,305,000			80,305,000	80,305,000	
(Authority to borrow)	*(27,000,000)*			*(27,000,000)*	*(27,000,000)*	
Total, General Government	10,032,444,569	1,000,000		10,033,444,569	10,006,641,569	−26,803,000

See footnotes at end of table p. 2364.

VIIIb. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS, FISCAL YEAR 1989, ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS, 100TH CONGRESS, 2D SESSION—Continued

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7, "Compilers' Notes," p. III). Basically, the figures for permanent appropriations are taken from the February 1988 Budget and, since many are *indefinite*, are subject to revision as better data become available.]

Department or establishment	Original budget estimates, fiscal year 1989	Budget amendments and supplemental estimates, fiscal year 1989		Total budget estimates, fiscal year 1989	New budget (obligational) authority appropriated, 100th Cong. 2d sess. (table IVa)	Increase (+) or decrease (−), appropriations compared with estimates
		Increases	Decreases			
General Services Administration:						
Regular annual appropriation acts	$300,732,000			$300,732,000	$277,234,000	−$23,498,000
Permanent appropriations: Federal funds	18,668,000			18,668,000	18,668,000	
Total, General Services Administration	319,400,000			319,400,000	295,902,000	−23,498,000
Department of Health and Human Services:						
Regular annual appropriation acts	96,302,760,000			96,302,760,000	97,915,745,000	+1,612,985,000
Supplemental appropriation act					321,000,000	+321,000,000
Appropriated during 100th Cong., 1st sess. for fiscal year 1989	*(84,466,323,000)*			*(84,466,323,000)*	[4] *(13,750,000,000)*	*(−70,716,323,000)*
Estimates not considered (see Table VIIIh)		$605,423,000		605,423,000		−605,423,000
Legislative acts: Trust funds [1]	1,375,000,000			1,375,000,000	[1] 1,408,000,000	+33,000,000
Permanent appropriations:						
Federal funds	21,192,165,000			21,192,165,000	21,192,165,000	
Trust funds	395,339,558,000			395,339,558,000	395,339,558,000	
Total, Department of Health and Human Services	514,209,483,000	605,423,000		514,814,906,000	516,176,468,000	+1,361,562,000
Department of Housing and Urban Development:						
Regular annual appropriation act	11,965,685,000			11,965,685,000	13,124,554,000	+1,158,869,000
Rescissions	*(−353,500,000)*			*(−353,500,000)*	−353,500,000	[6] −353,500,000
Permanent appropriations:						
Federal funds	1,952,075,000			1,952,075,000	1,952,075,000	
(Authority to borrow)	*(1,675,500,000)*			*(1,675,500,000)*	*(1,675,500,000)*	
Trust funds	5,000			5,000	5,000	
Total, Department of Housing and Urban Development *(net)*	13,917,765,000			13,917,765,000	14,723,134,000	+805,369,000
Department of the Interior:						
Regular annual appropriation acts	4,944,892,000			4,944,892,000	5,601,244,000	+656,352,000
Rescission					−30,000,000	−30,000,000

VIIIb. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS, FISCAL YEAR 1989, ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS, 100TH CONGRESS, 2D SESSION—Continued

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7, "Compilers' Notes," p. III). Basically, the figures for permanent appropriations are taken from the February 1988 Budget and, since many are *indefinite*, are subject to revision as better data become available.]

Department or establishment	Original budget estimates, fiscal year 1989	Budget amendments and supplemental estimates, fiscal year 1989		Total budget estimates, fiscal year 1989	New budget (obligational) authority appropriated, 100th Cong. 2d sess. (table IVa)	Increase (+) or decrease (−), appropriations compared with estimates
		Increases	Decreases			
Office of Personnel Management:						
Regular annual appropriation act	$7,340,559,000			$7,340,559,000	$7,341,082,000	+$523,000
Permanent appropriations:						
Federal funds	12,026,695,000			12,026,695,000	12,026,695,000	
Trust funds	48,004,756,000			48,004,756,000	48,004,756,000	
Total, Office of Personnel Management	67,372,010,000			67,372,010,000	67,372,533,000	+523,000
Postal Service:						
Regular annual appropriation act	527,482,000			527,482,000	436,417,000	−91,065,000
Permanent appropriations:						
Federal funds	2,236,062,000			2,236,062,000	2,236,062,000	
(Authority to borrow)	*(2,236,062,000)*			*(2,236,062,000)*	*(2,236,062,000)*	
Total, Postal Service	2,763,544,000			2,763,544,000	2,672,479,000	−91,065,000
Railroad Retirement Board:						
Regular annual appropriation act	339,285,000			339,285,000	325,840,000	−13,445,000
Legislative acts: Trust funds [1]					[1] −1,000,000	−1,000,000
Permanent appropriations:						
Federal funds	2,914,300,000			2,914,300,000	2,914,300,000	
Trust funds	9,677,738,000			9,677,738,000	9,677,738,000	
Total, Railroad Retirement Board	12,931,323,000			12,931,323,000	12,916,878,000	−14,445,000
Small Business Administration:						
Regular annual appropriation act	404,080,000			404,080,000	419,143,000	+15,063,000
Department of State:						
Regular annual appropriation acts	3,200,007,000			3,200,007,000	3,255,131,000	+55,124,000
Supplemental appropriation act					5,000,000	+5,000,000
Permanent appropriations:						
Federal funds	161,210,000			161,210,000	161,210,000	
Trust funds	788,642,000			788,642,000	788,642,000	
Total, Department of State	4,149,859,000			4,149,859,000	4,209,983,000	+60,124,000

VIIIk. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS BY FISCAL YEARS ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS, 100TH CONGRESS, 2D SESSION—Continued

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7, "Compilers' Notes," p. III). Basically, the figures for permanent appropriations are taken from the January 1988 Budget and, since many are *indefinite*, are subject to revision as better data become available.]

Department or establishment	Budget estimates	New budget (obligational) authority appropriated, 100th Cong., 2d sess.	Increase (+) or decrease (−), appropriations compared with estimates
Permanent appropriations: Federal funds	$20,000,000	$20,000,000	
Grand total for session, District of Columbia—Federal Funds	561,596,000	556,910,000	−$4,686,000
(District of Columbia—Payable from District revenues:)			
(Appropriations, fiscal year 1989:)			
(Regular annual act (net))	*(3,206,916,000)*	*(3,206,095,000)*	*(−821,000)*
(Appropriations, fiscal year 1988:)			
(Regular annual act (net))	*(180,877,000)*	*(135,877,000)*	*(−45,000,000)*
(New budget (obligational) authority)	*(231,584,000)*	*(169,416,000)*	*(−62,168,000)*
(Rescissions)	*(−50,707,000)*	*(−33,539,000)*	*(+17,168,000)*
(Grand total for session, District of Columbia—Payable from District revenues (net))	*(3,387,793,000)*	*(3,341,972,000)*	*(−45,821,000)*
Department of Education:			
Appropriations, fiscal year 1989:			
Regular annual act	21,084,423,000	21,724,362,000	+639,939,000
Carried in other regular annual acts	67,653,000	71,553,000	+3,900,000
Carried in supplemental appropriations		108,000,000	+108,000,000
Estimates not considered (see Table VIIIh)	−28,722,000		+28,722,000
Subtotal	21,123,354,000	21,903,915,000	+780,561,000
Permanent appropriations:			
Federal funds	7,148,000	7,148,000	
Trust funds	10,000	10,000	
Total, permanent appropriations	7,158,000	7,158,000	
Grand total for session, Department of Education	21,130,512,000	21,911,073,000	+780,561,000
Department of Energy:			
Appropriations, fiscal year 1989:			
Regular annual act	12,309,066,000	11,880,112,000	−428,954,000
Carried in other regular annual act	1,563,180,000	1,633,971,000	+70,791,000
Appropriated during 100th Cong., 1st sess. for fiscal year 1989	*(500,000,000)*	*(525,000,000)*	*(+25,000,000)*
Subtotal	13,872,246,000	13,514,083,000	−358,163,000
Permanent appropriations:			
Federal funds	662,909,000	662,909,000	
(Authority to borrow)	*(136,000,000)*	*(136,000,000)*	
Trust funds	144,867,000	144,867,000	
Total, permanent appropriations	807,776,000	807,776,000	
Total appropriations, fiscal year 1989	14,680,022,000	14,321,859,000	−358,163,000
Appropriations, fiscal year 1990:			
Carried in other regular annual act	575,000,000	801,555,000	+226,555,000
Appropriations, fiscal year 1991:			
Carried in other regular annual act	600,000,000	200,000,000	−400,000,000
Appropriations, fiscal year 1992:			
Carried in other regular annual act	600,000,000		−600,000,000
Grand total for session, Department of Energy	16,455,022,000	15,323,414,000	−1,131,608,000

See footnotes at end of table p. 2390.

VIIIh. SUMMARY OF ESTIMATES NOT CONSIDERED, BY FISCAL YEARS, ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS, 100TH CONGRESS, 2D SESSION

Department or establishment	H. Doc. No. (unless otherwise indicated)	Regular budget estimates, fiscal year 1989	Budget amendments and supplemental estimates, fiscal year 1989 and prior years		Total budget estimates not considered
			Increases	Decreases	
DEPARTMENT OF EDUCATION					
Bilingual, immigrant and refugee education	100-201			[1] $28,722,000	-$28,722,000
FOREIGN ASSISTANCE					
International security assistance *(by transfer)*	100-232		[2] ($150,000,000)		(150,000,000)
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
HUMAN DEVELOPMENT SERVICES					
Family social services	100-214		605,423,000		605,423,000
HEALTH CARE FINANCING ADMINISTRATION					
Grants to States for Medicaid:					
Fiscal year 1990	100-152	[3] $26,814,639,000			26,814,639,000
Fiscal year 1991	100-152	9,800,000,000			9,800,000,000
Payments to health care trust funds, 1990	100-152	35,082,000,000			35,082,000,000
SOCIAL SECURITY ADMINISTRATION					
Payments to social security trust funds, 1990	100-152	[3] 85,275,000			85,275,000
Special benefits for disabled coal miners:					
Fiscal year 1990	100-152	[3] 636,755,000			636,755,000
Fiscal year 1991	100-152	203,000,000			203,000,000
Supplemental security income program:					
Fiscal year 1990	100-152	[3] 9,364,201,000			9,364,201,000
Fiscal year 1991	100-152	3,234,000,000			3,234,000,000
FAMILY SUPPORT ADMINISTRATION					
Family suuport payments to States:					
Fiscal year 1990	100-152	[3] 8,110,268,000			8,110,268,000
Fiscal year 1991	100-152	2,730,000,000			2,730,000,000
Total, Department of Health and Human Services		96,060,138,000	605,423,000		605,423,000
Fiscal year 1989			(605,423,000)		(605,423,000)
Fiscal year 1990		(80,093,138,000)			(80,093,138,000)
Fiscal year 1991		(15,967,000,000)			(15,967,000,000)
Grand total, estimates not considered		96,060,138,000	605,423,000	28,722,000	96,636,839,000
Fiscal year 1989			(605,423,000)	(28,722,000)	(576,701,000)
Fiscal year 1990		(80,093,138,000)			(80,093,138,000)
Fiscal year 1991		(15,967,000,000)			(15,967,000,000)

[1] The Congress considered the original budget request for $185,295,000, which was proposed for later transmittal, instead of the revised request for $156,673,000 submitted in H. Doc. 100-201. Amount shown reflects the net difference of the two requests.

[2] Request for transfer of funds was not considered by the Appropriations Committee, but was considered by the Committee on Foreign Affairs in H.R. 5551.

[3] Funds requested in the budget for FY 1990 were for the entire fiscal year. The Congress considered only the amounts for the 1st quarter of FY 1990, based on estimates provided by the Department of Health and Human Services (see footnote 7, p. 2323, this volume). Amounts shown here are the balance for FY 1990, not considered.

VIIIi. RESCISSIONS OF APPROPRIATIONS CONSIDERED DURING THE 2D SESSION OF THE 100TH CONGRESS, ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS

[NOTE.—For informational purposes only to separately identify rescissions. The amounts rescinded *are* reflected in the *totals* of new budget (obligational) authority shown in various tabulations.]

Department or activity	Amount proposed for rescission	Amount rescinded	Increase (+) or decrease (−), amounts rescinded compared with proposals
Department of Agriculture:			
Interior Appropriations Act, 1989 (P.L. 100-446):			
Forest Service, timber roads, purchaser election, forest service		$40,000,000	+$40,000,000
Department of Defense—Military:			
Military Construction Appropriations Act, 1989 (P.L. 100-447):			
Military construction, Defense Agencies		19,548,000	+19,548,000
District of Columbia:			
District of Columbia Appropriations Act, 1989 (P.L. 100-462):			
District of Columbia Funds, fiscal year 1988 supplemental:			
Governmental direction and support	*($1,357,000)*	*(3,525,000)*	*(+2,168,000)*
Economic development and regulation	*(15,636,000)*	*(15,779,000)*	*(+143,000)*
Public safety and justice		*(2,000)*	*(+2,000)*
Public education system	*(1,114,000)*	*(1,114,000)*	
Human Support Services	*(18,311,000)*	*(8,578,000)*	*(−9,733,000)*
Public works	*(8,677,000)*	*(2,625,000)*	*(−6,052,000)*
Repayment of loans and interest	*(4,474,000)*	*(1,005,000)*	*(−3,469,000)*
Personal services	*(227,000)*		*(−227,000)*
Personal services	*(911,000)*	*(911,000)*	
Total, District of Columbia	*(50,707,000)*	*(33,539,000)*	*(−17,168,000)*
Department of Housing and Urban Development:			
HUD Appropriations Act, 1989 (P.L. 100-404):			
Housing programs:			
Assisted housing deobligations *(indefinite)*	303,500,000	303,500,000	
Rental housing assistance *(indefinite)*	50,000,000	50,000,000	
Total, Housing and Urban Development	353,500,000	353,500,000	
Department of the Interior:			
Interior Appropriations Act, 1989 (P.L. 100-446):			
National Park Service, land and water conservation fund *(contract authority)*		30,000,000	+30,000,000
National Aeronautics and Space Administration:			
HUD Appropriations Act, 1989 (P.L. 100-404):			
Research and development		25,000,000	+25,000,000
Department of State:			
Budget Rescission Act, 1988 (P.L. 100-251):			
Department of State, migration and refugee assistance		8,000,000	+8,000,000
Department of Transportation:			
Dire Emergency Supplemental Appropriations Act, 1988 (P.L. 100-393):			
Federal Aviation Administration, grants-in-aid for airports *(contract authority)*		12,000,000	+12,000,000

VIIIi. RESCISSIONS OF APPROPRIATIONS CONSIDERED DURING THE 2D SESSION OF THE 100TH CONGRESS, ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS—Continued

[NOTE.—For informational purposes only to separately identify rescissions. The amounts rescinded *are* reflected in the *totals* of new budget (obligational) authority shown in various tabulations.]

Department or activity	Amount proposed for rescission	Amount rescinded	Increase (+) or decrease (−), amounts rescinded compared with proposals
Department of Transportation—Continued:			
Transportation Appropriations Act, 1989 (P.L. 100–457):			
Federal Aviation Administration, grants-in-aid for airports *(contract authority)*		$100,000,000	+$100,000,000
Federal Highway Administration, International Zaragosa Bridge		3,000,000	+3,000,000
Total, Department of Transportation		115,000,000	+115,000,000
Grand total, rescissions of budget authority, (100th Congress, 2d session)	[1] $353,500,000	[1] 591,048,000	+237,548,000
Fiscal year 1988		(20,000,000)	(+20,000,000)
Fiscal year 1989	(353,500,000)	(571,048,000)	(+217,548,000)

[1] See pp. 477–487, volume 1, for status reports on rescissions.

VIIIj. DEFERRALS OF BUDGET AUTHORITY AND OUTLAYS ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS, 100TH CONGRESS, 2D SESSION

CLERK'S NOTE: There were *no deferral actions* by the Committees on Appropriations during the 100th Congress, 2d session. For a summary of deferrals administered by the Office of Management and Budget, refer to H. Doc. 100-230 and 101-23 (see pp. 477-487, volume 1).

VIIIk. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS BY FISCAL YEARS ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS, 100TH CONGRESS, 2D SESSION

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7, "Compilers' Notes," p. III). Basically, the figures for permanent appropriations are taken from the January 1988 Budget and, since many are *indefinite*, are subject to revision as better data become available.]

Department or establishment	Budget estimates	New budget (obligational) authority appropriated, 100th Cong., 2d sess.	Increase (+) or decrease (−), appropriations compared with estimates
Department of Agriculture:			
Appropriations, fiscal year 1989:			
Regular annual act	$41,795,462,000	$41,771,710,000	−$23,752,000
Carried in other regular annual act	1,609,354,000	1,885,011,000	+275,657,000
Rescission		−40,000,000	−40,000,000
Appropriations to liquidate contract authorizations		*(5,333,000)*	*(+5,333,000)*
Legislative acts: Federal funds [1]		[1] 412,000,000	+412,000,000
Subtotal *(net)*	43,404,816,000	44,028,721,000	+623,905,000
Permanent appropriations:			
Federal funds	[2] 7,313,114,000	[2] 7,313,114,000	
(Authority to borrow)	*(2,282,292,000)*	*(2,282,292,000)*	
Trust funds	400,435,000	400,435,000	
Total, permanent appropriations	7,713,549,000	7,713,549,000	
Grand total for session, Department of Agriculture *(net)*	51,118,365,000	51,742,270,000	+623,905,000
Department of Commerce:			
Appropriations, fiscal year 1989:			
Regular annual act	2,396,467,000	2,699,162,000	+302,695,000
Permanent appropriations:			
Federal funds	56,300,000	56,300,000	
Trust funds	49,200,000	49,200,000	
Total, permanent appropriations	105,500,000	105,500,000	
Grand total for session, Department of Commerce	2,501,967,000	2,804,662,000	+302,695,000
Department of Defense—Civil:			
Appropriations, fiscal year 1989:			
Regular annual act	3,308,098,000	3,236,261,000	−71,837,000
Carried in other regular annual act	63,053,000	65,263,000	+2,210,000
Subtotal	3,371,151,000	3,301,524,000	−69,627,000
Permanent appropriations:			
Federal funds	10,661,050,000	10,661,050,000	
Trust funds	35,556,505,000	35,556,505,000	
Total, permanent appropriations	46,217,555,000	46,217,555,000	
Grand total for session, Department of Defense—Civil	49,588,706,000	49,519,079,000	−69,627,000

See footnotes at end of table p. 2390.

VIIIk. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS BY FISCAL YEARS ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS, 100TH CONGRESS, 2D SESSION—Continued

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7, "Compilers' Notes," p. III). Basically, the figures for permanent appropriations are taken from the January 1988 Budget and, since many are *indefinite*, are subject to revision as better data become available.]

Department or establishment	Budget estimates	New budget (obligational) authority appropriated, 100th Cong., 2d sess.	Increase (+) or decrease (−), appropriations compared with estimates
Department of Defense—Military:			
Military personnel:			
Appropriations, fiscal year 1989:			
Regular annual act	$78,399,300,000	$78,339,954,000	−$59,346,000
Operation and maintenance:			
Appropriations, fiscal year 1989:			
Regular annual act	85,633,990,000	85,293,742,000	−340,158,000
Procurement:			
Appropriations, fiscal year 1989:			
Regular annual act	79,874,500,000	79,762,642,000	−111,858,000
Research, development, test, and evaluation:			
Appropriations, fiscal year 1989:			
Regular annual act	38,157,100,000	37,663,867,000	−493,233,000
Revolving and management funds:			
Appropriations, fiscal year 1989:			
Regular annual act	763,500,000	688,500,000	−75,000,000
Chemical agents and munitions destruction, Defense			
Appropriations, fiscal year 1989:			
Regular annual act	162,900,000	179,500,000	+16,600,000
Other:			
Appropriations, fiscal year 1989:			
Regular annual act		316,000,000	+316,000,000
Military construction:			
Appropriations, fiscal year 1989:			
Carried in separate regular annual act *(net)*	8,797,900,000	[3]8,797,000,000	−900,000
New budget *(obligational)* authority	(8,797,900,000)	[3](8,816,548,000)	(+18,648,000)
Rescission		(−19,548,000)	(−19,548,000)
Appropriated during 99th Cong., 2d sess. for fiscal year 1989	*(162,000,000)*	[4]*(214,000,000)*	*(+52,000,000)*
Total, regular annual appropriation acts *(net)*	291,789,100,000	291,041,205,000	−747,895,000
Permanent appropriations:			
Federal funds	217,000,000	217,000,000	
(Authority to borrow)	*(3,000,000)*	*(3,000,000)*	
Trust funds	24,200,000	24,200,000	
Total, permanent appropriations	241,200,000	241,200,000	
Grand total for session, Department of Defense—Military *(net)*	292,030,300,000	291,282,405,000	−747,895,000
Consisting of—			
Appropriations, fiscal year 1989:			
Regular annual act	282,991,200,000	282,244,205,000	−746,995,000
Carried in separate regular annual acts	8,797,900,000	8,816,548,000	+18,648,000
Rescission		−19,548,000	−19,548,000
Subtotal *(net)*	291,789,100,000	291,041,205,000	−747,895,000
Permanent appropriations:			
Federal funds	217,000,000	217,000,000	
Trust funds	24,200,000	24,200,000	
Subtotal	241,200,000	241,200,000	
District of Columbia—Federal Funds:			
Appropriations, fiscal year 1989:			
Regular annual act	541,596,000	536,910,000	−4,686,000
Appropriated during 100th Cong., 1st sess. for fiscal year 1989		[4]*(20,000,000)*	*(+20,000,000)*

See footnotes at end of table p. 2390.

VIIIk. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS BY FISCAL YEARS ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS, 100TH CONGRESS, 2D SESSION—Continued

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7, "Compilers' Notes," p. III). Basically, the figures for permanent appropriations are taken from the January 1988 Budget and, since many are *indefinite*, are subject to revision as better data become available.]

Department or establishment	Budget estimates	New budget (obligational) authority appropriated, 100th Cong., 2d sess.	Increase (+) or decrease (−), appropriations compared with estimates
Environmental Protection Agency:			
Appropriations, fiscal year 1989:			
Regular annual act	$4,779,000,000	$5,155,125,000	+$376,125,000
Permanent appropriations: Trust funds	10,000	10,000	
Grand total for session, Environmental Protection Agency	4,779,010,000	5,155,135,000	+376,125,000
Foreign Assistance:			
Appropriations, fiscal year 1989:			
Regular annual act	13,857,129,987	13,767,242,000	−89,887,987
Permanent appropriations:			
Federal funds	[5] 22,000,000	[5] 22,000,000	
(Authority to borrow)	[5] *(22,000,000)*	[5] *(22,000,000)*	
Trust funds	6,853,300,000	6,853,300,000	
(Contract authority)	*(6,848,000,000)*	*(6,848,000,000)*	
Total, permanent appropriations	6,875,300,000	6,875,300,000	
Grand total for session, Foreign Assistance	20,732,429,987	20,642,542,000	−89,887,987
General Government:			
Appropriations, fiscal year 1989:			
Regular annual act	322,989,000	321,988,000	−1,001,000
Carried in other regular annual acts	6,501,707,569	6,470,405,569	−31,302,000
Carried in supplemental appropriations		5,500,000	+5,500,000
Appropriated during 99th Cong., 2d sess. and 100th Cong., 1st sess. for fiscal year 1989	*(133,100,000)*	[4] *(238,000,000)*	*(+104,900,000)*
Subtotal	6,824,696,569	6,797,893,569	−26,803,000
Permanent appropriations:			
Federal funds	3,128,443,000	3,128,443,000	
(Authority to borrow)	*(2,874,435,000)*	*(2,874,435,000)*	
Trust funds	80,305,000	80,305,000	
(Authority to borrow)	*(27,000,000)*	*(27,000,000)*	
Total, permanent appropriations	3,208,748,000	3,208,748,000	
Total appropriations, fiscal year 1989	10,033,444,569	10,006,641,569	−26,803,000
Appropriations, fiscal year 1991:			
Carried in other regular annual act	214,000,000	298,870,000	+84,870,000
Grand total for session, General Government	10,247,444,569	10,305,511,569	+58,067,000
General Services Administration:			
Appropriations, fiscal year 1989:			
Regular annual act	299,378,000	273,880,000	−25,498,000
Carried in other regular annual act	1,354,000	3,354,000	+2,000,000
Subtotal	300,732,000	277,234,000	−23,498,000
Permanent appropriations: Federal funds	18,668,000	18,668,000	
Grand total for session, General Services Administration	319,400,000	295,902,000	−23,498,000

See footnotes at end of table p. 2390.

VIIIk. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS BY FISCAL YEARS ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS, 100TH CONGRESS, 2D SESSION—Continued

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7, "Compilers' Notes," p. III). Basically, the figures for permanent appropriations are taken from the January 1988 Budget and, since many are *indefinite*, are subject to revision as better data become available.]

Department or establishment	Budget estimates	New budget (obligational) authority appropriated, 100th Cong., 2d sess.	Increase (+) or decrease (−), appropriations compared with estimates
Department of Health and Human Services:			
Appropriations, fiscal year 1989:			
Regular annual act	$94,780,374,000	$96,300,857,000	+$1,520,483,000
Carried in other regular annual acts	1,522,386,000	1,614,888,000	+92,502,000
Carried in supplemental appropriations		321,000,000	+321,000,000
Appropriated during 100th Cong., 1st sess. for fiscal year 1989	*(84,466,323,000)*	[4] *(13,750,000,000)*	*(−70,716,323,000)*
Estimates not considered (see Table VIIIh)	605,423,000		−605,423,000
Legislative acts: Trust funds [1]	1,375,000,000	[1] 1,408,000,000	+33,000,000
Subtotal	98,283,183,000	99,644,745,000	+1,361,562,000
Permanent appropriations:			
Federal funds	21,192,165,000	21,192,165,000	
Trust funds	395,339,558,000	395,339,558,000	
Total, permanent appropriations	416,531,723,000	416,531,723,000	
Total appropriations, fiscal year 1989	514,814,906,000	516,176,468,000	+1,361,562,000
Appropriations, fiscal year 1988:			
Supplemental act		5,500,000	+5,500,000
Appropriations, fiscal year 1990:			
Regular annual act	14,791,000,000	14,847,000,000	+56,000,000
Carried in other regular annual acts	1,003,007,000		−1,003,007,000
Estimates not considered (see Table VIIIh)	80,093,138,000		−80,093,138,000
Total appropriations, fiscal year 1990	95,887,145,000	14,847,000,000	−81,040,145,000
Appropriations, fiscal year 1991:			
Estimates not considered (see Table VIIIh)	15,967,000,000		−15,967,000,000
Grand total for session, Department of Health and Human Services	626,669,051,000	531,028,968,000	−95,640,083,000
Department of Housing and Urban Development:			
Appropriations, fiscal year 1989:			
Regular annual act	11,965,685,000	13,124,554,000	+1,158,869,000
Rescissions	*(−353,500,000)*	−353,500,000	[6] −353,500,000
Subtotal *(net)*	11,965,685,000	12,771,054,000	+805,369,000
Permanent appropriations:			
Federal funds	1,952,075,000	1,952,075,000	
(Authority to borrow)	*(1,675,500,000)*	*(1,675,500,000)*	
Trust funds	5,000	5,000	
Total, permanent appropriations	1,952,080,000	1,952,080,000	
Grand total for session, Department of Housing and Urban Development *(net)*	13,917,765,000	14,723,134,000	+805,369,000
Department of the Interior:			
Appropriations, fiscal year 1989:			
Regular annual act	3,972,904,000	4,607,623,000	+634,719,000
Rescission		−30,000,000	−30,000,000
Carried in other regular annual acts	971,988,000	993,621,000	+21,633,000
Legislative acts:			
Federal funds [1]		[1] 15,000,000	+15,000,000
Trust funds [1]		[1] 1,000,000	+1,000,000

See footnotes at end of table p. 2390.

VIIIg. RECAPITULATION OF COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS, 100TH CONGRESS, 2D SESSION

[NOTE.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations (see explanation, par. 4, "Compilers' Notes," p. III).]

	Amount
Net increase in budget estimates for fiscal 1988 (p. 2365)	+$253,110,269
Net increase in budget estimates for fiscal 1989 (p. 2364)	+3,992,628,164
Net reduction below budget estimates for fiscal 1990 (p. 2367)	−80,813,590,000
Net reduction below budget estimates for fiscal 1991 (p. 2369)	−16,282,130,000
Net reduction below budget estimates for fiscal 1992 (p. 2371)	−600,000,000
Total net reduction below budget estimates, 100th Cong., 2d sess.	−93,449,981,567

VIIIk. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS BY FISCAL YEARS ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS, 100TH CONGRESS, 2D SESSION—Continued

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7, "Compilers' Notes," p. III). Basically, the figures for permanent appropriations are taken from the January 1988 Budget and, since many are *indefinite*, are subject to revision as better data become available.]

Department or establishment	Budget estimates	New budget (obligational) authority appropriated, 100th Cong., 2d sess.	Increase (+) or decrease (−), appropriations compared with estimates
Department of the Interior—Continued:			
Appropriations, fiscal year 1989—Continued:			
Appropriations to liquidate contract authorizations	*($31,000,000)*	*($47,000,000)*	*(+$16,000,000)*
Subtotal *(net)*	4,944,892,000	5,587,244,000	+642,352,000
Permanent appropriations:			
Federal funds	1,031,143,000	1,031,143,000	.....
(Authority to borrow)	*(1,300,000)*	*(1,300,000)*	.....
(Contract authority)	*(30,000,000)*	*(30,000,000)*	.....
Trust funds	611,415,000	611,415,000	.....
Total, permanent appropriations	1,642,558,000	1,642,558,000	.....
Grand total for session, Department of the Interior *(net)*	6,587,450,000	7,229,802,000	+642,352,000
The Judiciary:			
Appropriations, fiscal year 1989:			
Regular annual act	1,716,583,000	1,393,790,000	−322,793,000
Carried in supplemental appropriations	.....	51,000,000	+51,000,000
Legislative acts: Trust funds [1]	.....	[1] 58,000,000	+58,000,000
Subtotal	1,716,583,000	1,502,790,000	−213,793,000
Permanent appropriations: Trust funds	15,735,000	15,735,000	.....
Grand total for session, The Judiciary	1,732,318,000	1,518,525,000	−213,793,000
Department of Justice:			
Appropriations, fiscal year 1989:			
Regular annual act	6,018,517,000	5,389,469,000	−629,048,000
Carried in supplemental appropriations	.....	360,400,000	+360,400,000
Legislative acts: Federal funds [1]	.....	[1] 50,000,000	+50,000,000
Subtotal	6,018,517,000	5,799,869,000	−218,648,000
Permanent appropriations: Federal funds	256,843,000	256,843,000	.....
Total appropriations, fiscal year 1989	6,275,360,000	6,056,712,000	−218,648,000
Appropriations, fiscal year 1988:			
Supplemental act	.....	63,609,000	+63,609,000
Grand total for session, Department of Justice	6,275,360,000	6,120,321,000	−155,039,000
Department of Labor:			
Appropriations, fiscal year 1989:			
Regular annual act	6,989,812,000	6,462,681,000	−527,131,000
Carried in supplemental appropriations	.....	2,000,000	+2,000,000
Legislative acts: Trust funds [1]	.....	[1] 8,000,000	+8,000,000
Subtotal	6,989,812,000	6,472,681,000	−517,131,000
Permanent appropriations: Trust funds	26,187,010,000	26,187,010,000	.....
Grand total for session, Department of Labor	33,176,822,000	32,659,691,000	−517,131,000

See footnotes at end of table p. 2390.

VIIIk. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS BY FISCAL YEARS ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS, 100TH CONGRESS, 2D SESSION—Continued

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7, "Compilers' Notes," p. III). Basically, the figures for permanent appropriations are taken from the January 1988 Budget and, since many are *indefinite*, are subject to revision as better data become available.]

Department or establishment	Budget estimates	New budget (obligational) authority appropriated, 100th Cong., 2d sess.	Increase (+) or decrease (−), appropriations compared with estimates
Legislative Branch:			
Appropriations, fiscal year 1989:			
Regular annual act	$1,964,329,200	$1,802,624,200	−$161,705,000
Legislative acts: Trust funds [1]		[1] 20,000,000	+20,000,000
Subtotal	1,964,329,200	1,822,624,200	−141,705,000
Permanent appropriations:			
Federal funds	136,992,000	136,992,000	
Trust funds	7,540,000	7,540,000	
Total permanent appropriations	144,532,000	144,532,000	
Grand total for session, Legislative Branch	2,108,861,200	1,967,156,200	−141,705,000
National Aeronautics and Space Administration:			
Appropriations, fiscal year 1989:			
Regular annual act	11,488,000,000	10,701,000,000	−787,000,000
Rescission		−25,000,000	−25,000,000
Grand total for session, National Aeronautics and Space Administration *(net)*	11,488,000,000	10,676,000,000	−812,000,000
Office of Personnel Management:			
Appropriations, fiscal year 1989:			
Regular annual act	7,340,559,000	7,341,082,000	+523,000
Permanent appropriations:			
Federal funds	12,026,695,000	12,026,695,000	
Trust funds	48,004,756,000	48,004,756,000	
Total, permanent appropriations	60,031,451,000	60,031,451,000	
Grand total for session, Office of Personnel Management	67,372,010,000	67,372,533,000	+523,000
Postal Service:			
Appropriations, fiscal year 1989:			
Regular annual act	527,482,000	436,417,000	−91,065,000
Permanent appropriations:			
Federal funds	2,236,062,000	2,236,062,000	
(Authority to borrow)	*(2,236,062,000)*	*(2,236,062,000)*	
Grand total for session, Postal Service	2,763,544,000	2,672,479,000	−91,065,000
Railroad Retirement Board:			
Appropriations, fiscal year 1989:			
Regular annual act	339,285,000	325,840,000	−13,445,000
Legislative acts: Trust funds [1]		[1] −1,000,000	−1,000,000
Subtotal	339,285,000	324,840,000	−14,445,000
Permanent appropriations:			
Federal funds	2,914,300,000	2,914,300,000	
Trust funds	9,677,738,000	9,677,738,000	
Total, permanent appropriations	12,592,038,000	12,592,038,000	
Grand total for session, Railroad Retirement Board	12,931,323,000	12,916,878,000	−14,445,000

See footnotes at end of table p. 2390.

VIIIk. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS BY FISCAL YEARS ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS, 100TH CONGRESS, 2D SESSION—Continued

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7, "Compilers' Notes," p. III). Basically, the figures for permanent appropriations are taken from the January 1988 Budget and, since many are *indefinite*, are subject to revision as better data become available.]

Department or establishment	Budget estimates	New budget (obligational) authority appropriated, 100th Cong., 2d sess.	Increase (+) or decrease (−), appropriations compared with estimates
Small Business Administration:			
Appropriations, fiscal year 1989:			
Regular annual act	$404,080,000	$419,143,000	+$15,063,000
Department of State:			
Appropriations, fiscal year 1989:			
Regular annual act	2,749,167,000	2,732,341,000	−16,826,000
Carried in other regular annual act	450,840,000	522,790,000	+71,950,000
Carried in supplemental appropriations		5,000,000	+5,000,000
Subtotal	3,200,007,000	3,260,131,000	+60,124,000
Permanent appropriations:			
Federal funds	161,210,000	161,210,000	
Trust funds	788,642,000	788,642,000	
Total, permanent appropriations	949,852,000	949,852,000	
Total appropriations, fiscal year 1989	4,149,859,000	4,209,983,000	+60,124,000
Appropriations, fiscal year 1988:			
Supplemental act *(net)*		16,000,000	+16,000,000
New budget *(obligational)* authority		(24,000,000)	(+24,000,000)
Rescission		(−8,000,000)	(−8,000,000)
Grand total for session, Department of State *(net)*	4,149,859,000	4,225,983,000	+76,124,000
Department of Transportation:			
Appropriations, fiscal year 1989:			
Regular annual act	8,644,616,000	10,764,037,000	+2,119,421,000
Rescissions		−103,000,000	−103,000,000
Carried in other regular annual act	184,851,000	177,001,000	−7,850,000
Carried in supplemental appropriations		116,000,000	+116,000,000
Appropriations to liquidate contract authorizations	*(15,149,400,000)*	*(14,719,400,000)*	*(−430,000,000)*
Subtotal *(net)*	8,829,467,000	10,954,038,000	+2,124,571,000
Permanent appropriations:			
Federal funds	75,161,000	75,161,000	
(Authority to borrow)	*(69,461,000)*	*(69,461,000)*	
Trust funds	16,852,569,000	16,852,569,000	
(Contract authority)	*(16,847,929,000)*	*(16,847,929,000)*	
Total, permanent appropriations	16,927,730,000	16,927,730,000	
Total appropriations, fiscal year 1989 *(net)*	25,757,197,000	27,881,768,000	+2,124,571,000
Appropriations, fiscal year 1988:			
Supplemental act *(net)*			
New budget *(obligational)* authority		(12,000,000)	(+12,000,000)
Rescission		(−12,000,000)	(−12,000,000)
Grand total for session, Department of Transportation *(net)*	25,757,197,000	27,881,768,000	+2,124,571,000

See footnotes at end of table p. 2390.

VIIIk. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS BY FISCAL YEARS ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS, 100TH CONGRESS, 2D SESSION—Continued

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7, "Compilers' Notes," p. III). Basically, the figures for permanent appropriations are taken from the January 1988 Budget and, since many are *indefinite*, are subject to revision as better data become available.]

Department or establishment	Budget estimates	New budget (obligational) authority appropriated, 100th Cong., 2d sess.	Increase (+) or decrease (−), appropriations compared with estimates
Department of the Treasury:			
Appropriations, fiscal year 1989:			
Regular annual act	$7,673,317,000	$7,646,543,000	−$26,774,000
Carried in other regular annual act	185,800,000	185,700,000	−100,000
Carried in supplemental appropriations		22,500,000	+22,500,000
Legislative acts: Federal funds [1]		[1] 15,000,000	+15,000,000
Private appropriation acts		499,151	+499,151
Subtotal	7,859,117,000	7,870,242,151	+11,125,151
Permanent appropriations:			
Federal funds	226,720,957,000	226,720,957,000	
Trust funds	17,458,000	17,458,000	
Total, permanent appropriations	226,738,415,000	226,738,415,000	
Total appropriations, fiscal year 1989	234,597,532,000	234,608,657,151	+11,125,151
Appropriations, fiscal year 1988:			
Private appropriation acts		501,269	+501,269
Grand total for session, Department of the Treasury	234,597,532,000	234,609,158,420	+11,626,420
Veterans Administration:			
Appropriations, fiscal year 1989:			
Regular annual act	27,927,068,000	28,151,068,000	+224,000,000
Legislative acts: Trust funds [1]		[1] −6,000,000	−6,000,000
Permanent appropriations: Trust funds	1,629,325,000	1,629,325,000	
Total appropriations, fiscal year 1989	29,556,393,000	29,774,393,000	+218,000,000
Appropriations, fiscal year 1988:			
Supplemental act	1,049,700,000	1,217,200,000	+167,500,000
Grand total for session, Veterans Administration	30,606,093,000	30,991,593,000	+385,500,000
Grand total:			
Consisting of—			
Appropriations:			
Fiscal year 1989 *(net)*	1,435,109,172,756	1,439,101,800,920	+3,992,628,164
New budget *(obligational)* authority	(1,434,532,471,756)	(1,439,672,848,920)	(+5,140,377,164)
Rescissions	*(−353,500,000)*	(−571,048,000)	[2](−571,048,000)
Estimates not considered	(576,701,000)		(−576,701,000)
Fiscal year 1988 *(net)*	1,049,700,000	1,302,810,269	+253,110,269
New budget *(obligational)* authority	(1,049,700,000)	(1,322,810,269)	(+273,110,269)
Rescissions		(−20,000,000)	(−20,000,000)
Fiscal year 1990	96,462,145,000	15,648,555,000	−80,813,590,000
New budget *(obligational)* authority	(16,369,007,000)	(15,648,555,000)	(−720,452,000)
Estimates not considered	(80,093,138,000)		(−80,093,138,000)
Fiscal year 1991	16,781,000,000	498,870,000	−16,282,130,000
New budget *(obligational)* authority	(814,000,000)	(498,870,000)	(−315,130,000)
Estimates not considered	(15,967,000,000)		(−15,967,000,000)
Fiscal year 1992	600,000,000		−600,000,000
Appropriations to liquidate contract authorizations	*(15,180,400,000)*	*(14,771,733,000)*	*(−408,667,000)*
Net total	1,550,002,017,756	1,456,552,036,189	−93,449,981,567

See footnotes at end of table p. 2390.

IX. COMPARISON OF BUDGET ESTIMATES AND APPROPRIATIONS BY SESSIONS OF CONGRESS—Continued

[NOTE.—Concept of "budget estimates" and "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts not included in this tabulation prior to the 90th Cong., 2d sess. (See explanation, par. 7 "Compilers' Notes", p. III.) Also, beginning with the 85th Cong., 2d sess. (fiscal year 1959), figures *exclude* amounts relating to refunding Internal Revenue collections and sinking fund and other debt retirement funds.]

Congress and session	Budget estimates	Appropriations	Increase (+) or decrease (−), appropriations compared with estimates with estimates
90th Cong., 2d sess., fiscal year 1969 and prior years	[10] $209,439,260,996	[11] $196,537,244,324	−$12,902,016,672
Consisting of:			
Regular annual and supplemental appropriation acts	*(147,908,612,996)*	*(133,339,868,734)*	*(−14,568,744,262)*
Appropriations in legislative acts	*(1,332,500,000)*	*(2,999,227,590)*	*(+1,666,727,590)*
Permanent appropriations, Federal and trust funds	*(72,998,148,000)*	*(72,998,148,000)*	
Adjustments for interfund and intragovernmental transactions	*(−12,800,000,000)*	*(−12,800,000,000)*	
91st Cong., 1st sess., fiscal year 1970 and prior years	[12] 210,843,237,215	[13] 207,248,481,494	−3,594,755,721
Consisting of:			
Regular annual and supplemental appropriation acts	*(142,701,346,215)*	*(134,431,463,135)*	*(−8,269,883,080)*
Appropriations in legislative acts	*(5,000,000)*	*(4,680,127,359)*	*(+4,675,127,359)*
Permanent appropriations, Federal and trust funds	*(82,052,416,000)*	*(82,052,416,000)*	
Adjustments for interfund and intragovernmental transactions	*(−13,915,525,000)*	*(−13,915,525,000)*	
91st Cong., 2d sess., fiscal year 1971 and prior years	[14] 217,605,978,434	[15] 232,139,894,882	+14,533,916,448
Consisting of:			
Regular annual and supplemental appropriation acts	*(147,778,903,434)*	*(144,273,528,504)*	*(−3,505,374,930)*
Appropriations in legislative acts		*(18,039,291,378)*	*(+18,039,291,378)*
Permanent appropriations, Federal and trust funds	*(88,059,842,000)*	*(88,059,842,000)*	
Adjustments for interfund and intragovernmental transactions	*(−18,232,767,000)*	*(−18,232,767,000)*	
92d Cong., 1st sess., fiscal year 1972 and prior years	[16] 248,329,646,937	[17] 245,707,600,635	−2,622,046,302
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts	*(167,969,353,937)*	*(165,300,661,865)*	*(−2,668,692,072)*
Appropriations in legislative acts		*(46,645,770)*	*(+46,645,770)*
Permanent appropriations, Federal and trust funds	*(100,764,691,000)*	*(100,764,691,000)*	
Adjustments for interfund and intragovernmental transactions	*(−20,404,398,000)*	*(−20,404,398,000)*	
92d Cong., 2d sess., fiscal year 1973 and prior years	[18] 281,543,640,953	[19] [20] 284,782,538,934	+3,238,897,981
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts	*(185,509,077,552)*	*(179,006,901,364)*	*(−6,502,176,188)*
Appropriations in legislative acts	*(1,954,000,000)*	*(11,200,404,169)*	*(+9,246,404,169)*
Permanent appropriations, Federal and trust funds	*(117,995,208,401)*	*(118,489,878,401)*	*(+494,670,000)*
Adjustments for interfund and intragovernmental transactions	*(−23,914,645,000)*	*(−23,914,645,000)*	

See footnotes on pp. 2396–2398.

IX. COMPARISON OF BUDGET ESTIMATES AND APPROPRIATIONS BY SESSIONS OF CONGRESS—Continued

[NOTE.—Concept of "budget estimates" and "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts not included in this tabulation prior to the 90th Cong., 2d sess. (See explanation, par. 7 "Compilers' Notes", p. III.) Also, beginning with the 85th Cong., 2d sess. (fiscal year 1959), figures *exclude* amounts relating to refunding Internal Revenue collections and sinking fund and other debt retirement funds.]

Congress and session	Budget estimates	Appropriations	Increase (+) or decrease (−), appropriations compared with estimates with estimates
93d Cong., 1st sess., fiscal year 1974 and prior years	[21] $295,154,959,255	[22] $303,476,236,654	+$8,321,277,399
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts	*(178,014,404,255)*	*(174,902,319,304)*	*(−3,112,084,951)*
Appropriations in legislative acts	*(4,969,950,000)*	*(16,403,312,350)*	*(+11,433,362,350)*
Permanent appropriations, Federal and trust funds	*(149,428,595,000)*	*(149,428,595,000)*	
Adjustments for interfund and intragovernmental transactions	*(−37,257,990,000)*	*(−37,257,990,000)*	
93d Cong., 2d sess., fiscal year 1975 and prior years	[23] 344,779,700,007	[24] 390,041,133,427	[25] +45,261,433,420
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts	*(213,694,183,007)*	*(204,012,311,514)*	*(−9,681,871,493)*
Appropriations in legislative acts	*(7,778,000,000)*	[26] *(62,721,304,913)*	*(+54,943,304,913)*
Permanent appropriations, Federal and trust funds	*(167,031,493,000)*	*(167,031,493,000)*	
Adjustments for interfund and intragovernmental transactions	*(−43,723,976,000)*	*(−43,723,976,000)*	
94th Cong., 1st sess.:			
Fiscal year 1976 and prior fiscal years	[27] 406,281,005,434	[28] 400,113,361,951	−6,167,643,483
Transition period	85,480,984,914	83,406,054,499	−2,074,930,415
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(268,312,351,434)*	*(262,194,919,839)*	*(−6,117,431,595)*
Transition period	*(49,641,474,914)*	*(47,575,114,499)*	*(−2,066,360,415)*
Rescission acts	[29] *(−2,632,306,226)*	*(−287,291,174)*	*(−287,291,174)*
Appropriations in legislative acts	*(10,000,000,000)*	[30] *(10,237,079,286)*	*(+237,079,286)*
Transition period (net)		*(−8,570,000)*	*(−8,570,000)*
Permanent appropriations, Federal and trust funds	*(182,234,795,000)*	*(182,234,795,000)*	
Transition period	*(46,570,059,000)*	*(46,570,059,000)*	
Adjustments for interfund and intragovernmental transactions	*(−54,266,141,000)*	*(−54,266,141,000)*	
Transition period	*(−10,730,549,000)*	*(−10,730,549,000)*	
94th Cong., 2d sess.:			
Fiscal year 1977 and prior fiscal years	[31] 452,558,401,535	[32] 444,664,800,880	−7,893,600,655
Transition period	3,667,308,225	[33] 8,507,078,440	+4,839,770,215
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(280,825,058,535)*	*(277,503,235,407)*	*(−3,321,823,128)*
Transition period (net)	*(3,579,808,225)*	*(4,812,230,180)*	*(+1,232,421,955)*
Rescission acts	[29] *(−2,721,032,655)*	*(−70,656,000)*	*(−70,656,000)*
Transition period	*(−45,600,000)*	*(−5,175,000)*	*(−5,175,000)*
Appropriations in legislative acts	*(6,950,000,000)*	[34] *(2,448,878,473)*	*(−4,501,121,527)*
Transition period	*(87,500,000)*	[35] *(3,700,023,260)*	*(+3,612,523,260)*
Permanent appropriations, Federal and trust funds	*(227,151,661,000)*	*(227,151,661,000)*	
Adjustments for interfund and intragovernmental transactions	*(−62,368,318,000)*	*(−62,368,318,000)*	

See footnotes on pp. 2396–2398.

VIIIk. COMPARISON OF BUDGET ESTIMATES, APPROPRIATIONS, AND RESCISSIONS BY FISCAL YEARS ARRANGED BY DEPARTMENTS AND ESTABLISHMENTS, 100TH CONGRESS, 2D SESSION—Continued

[Note.—Concept of "estimates" and "appropriations" as used in this tabulation, beginning with the 90th Congress, 2d session, differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts *not* included in this tabulation *prior* to the 90th Congress, 2d session (see explanation, par. 7, "Compilers' Notes," p. III). Basically, the figures for permanent appropriations are taken from the January 1988 Budget and, since many are *indefinite*, are subject to revision as better data become available.]

Department or establishment	Budget estimates	New budget (obligational) authority appropriated, 100th Cong., 2d sess.	Increase (+) or decrease (−), appropriations compared with estimates
Less adjustments for interfund and intragovernmental transactions (see par. 6 "Compilers' Notes", p. IV)	−$217,979,050,000	−$217,979,050,000	
Net total for session	1,332,022,967,756	1,238,572,986,189	−$93,449,981,567
Consisting of:			
Regular annual and supplemental appropriations acts	618,939,360,756	622,111,265,769	+3,171,905,013
Rescissions	*(−353,500,000)*	−591,048,000	[6] −591,048,000
Estimates not considered	96,636,839,000		−96,636,839,000
Appropriations in legislative acts	1,375,000,000	1,980,000,000	+605,000,000
Private appropriation acts		1,000,420	+1,000,420
Permanent appropriations: Federal and trust funds	833,050,818,000	833,050,818,000	
Adjustments for interfund and intragovernmental transactions (see "Compilers' Notes", p. IV)	−217,979,050,000	−217,979,050,000	

[1] Section 401 of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344) requires that all borrowing and contracting authority (so called "backdoor authority") enacted after March 3, 1975, be subject to subsequent appropriation action with certain exceptions which are listed under Sec. 401(d) of the Act (see p. 1956 in the 1974-1975 volume for text of Sec. 401(d)). This amount represents budget authority which falls within those exceptions.

[2] The President's budget requested $15,533,425,000 as authority to borrow under "Permanent Federal funds". The Congress provided a current appropriation in lieu of the permanent borrowing authority. The current request was based on the President's estimate of $9,828,286,000 (see p. I-E3, Budget Appendix for fiscal year 1989: H. Doc. 100-153).

[3] Includes $50,300,000 provided in the Military Construction Appropriations Act, 1989 (P.L. 100-447) "for construction, rebuilding and improvement of shore facilities of the United States Coast Guard", an agency of the Department of Transportation (see p. 350, volume I).

[4] Included under "Permanent appropriations, Federal funds".

[5] Excludes $643,196,000 requested under "Permanent appropriations, Federal funds". Reestimated by the Congressional Budget Office at a level of $939,500,000, this amount was considered as current appropriations in the Foreign Operations, Export Financing, and Related Programs Act, 1989 (P.L. 100-461) (see p. 170, volume I).

[6] Reflects actual rescission, rather than comparison with request.

IX. COMPARISON OF BUDGET ESTIMATES AND APPROPRIATIONS BY SESSIONS OF CONGRESS

[NOTE.—Concept of "budget estimates" and "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts not included in this tabulation prior to the 90th Cong., 2d sess. (See explanation, par. 7 "Compilers' Notes", p. III.) Also, beginning with the 85th Cong., 2d sess. (fiscal year 1959), figures *exclude* amounts relating to refunding Internal Revenue collections and sinking fund and other debt retirement funds.]

Congress and session	Budget estimates	Appropriations	Increase (+) or decrease (−), appropriations compared with estimates with estimates
79th Cong., 1st sess., fiscal year 1946 and prior fiscal years	$68,941,364,648	$67,545,660,880	−$1,395,703,768
79th Cong., 2d sess., fiscal year 1947 and prior fiscal years	35,153,239,093	33,571,494,011	−1,581,745,082
80th Cong., 1st sess., fiscal year 1948 and prior fiscal years	36,725,853,652	34,159,097,708	−2,566,755,944
80th Cong., 2d sess., fiscal year 1949 and prior fiscal years	41,053,346,713	38,282,717,957	−2,770,628,756
81st Cong., 1st sess., fiscal year 1950 and prior fiscal years	45,524,384,067	43,708,265,798	−1,816,118,269
81st Cong., 2d sess., fiscal year 1951 and prior fiscal years	80,172,585,565	78,200,190,841	−1,972,394,724
82d Cong., 1st sess., fiscal year 1952 and prior fiscal years	102,449,917,037	97,729,806,397	−4,720,110,640
82d Cong., 2d sess., fiscal year 1953 and prior fiscal years	91,205,894,252	82,596,777,411	−8,609,116,841
83d Cong., 1st sess., fiscal year 1954 and prior fiscal years	73,976,821,699	61,942,992,897	−12,033,828,802
83d Cong., 2d sess., fiscal year 1955 and prior fiscal years	57,422,327,386	54,812,457,263	−2,609,870,123
84th Cong., 1st sess., fiscal year 1956 and prior fiscal years	62,030,092,195	59,954,284,321	−2,075,807,874
84th Cong., 2d sess., fiscal year 1957 and prior fiscal years	68,587,724,820	68,330,229,608	−257,495,212
85th Cong., 1st sess., fiscal year 1958 and prior fiscal years	73,113,555,340	68,070,096,556	−5,043,458,784
85th Cong., 2d sess., fiscal year 1959 and prior fiscal years	81,737,060,999	81,119,818,276	−617,242,723
86th Cong., 1st sess., fiscal year 1960 and prior fiscal years	83,452,687,259	81,572,357,732	−1,880,329,527
86th Cong., 2d sess., fiscal year 1961 and prior fiscal years	84,010,398,836	83,799,241,957	−211,156,879
87th Cong., 1st sess., fiscal year 1962 and prior fiscal years	101,185,574,673	96,194,946,610	−4,990,628,063
87th Cong., 2d sess., fiscal year 1963 and prior fiscal years	107,203,876,735	102,661,536,812	−4,542,339,923
88th Cong., 1st sess., fiscal year 1964 and prior fiscal years	110,270,774,856	103,798,634,671	−6,472,140,185
88th Cong., 2d sess., fiscal year 1965 and prior fiscal years	[1] 110,204,088,176	[2] 106,070,110,056	−4,133,978,120
89th Cong., 1st sess., fiscal year 1966 and prior fiscal years	[3] 121,719,754,896	[4] 119,310,113,527	−2,409,641,369
89th Cong., 2d sess., fiscal year 1967 and prior fiscal years	[5] 144,812,809,086	[6] 143,883,626,282	−929,182,804
90th Cong., 1st sess., fiscal year 1968 and prior fiscal years	[7] 162,988,905,929	[8] 156,917,115,912	[9] −6,071,790,017

See footnotes on pp. 2396–2398.

IX. COMPARISON OF BUDGET ESTIMATES AND APPROPRIATIONS BY SESSIONS OF CONGRESS—Continued

[NOTE.—Concept of "budget estimates" and "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts not included in this tabulation prior to the 90th Cong., 2d sess. (See explanation, par. 7 "Compilers' Notes", p. III.) Also, beginning with the 85th Cong., 2d sess. (fiscal year 1959), figures *exclude* amounts relating to refunding Internal Revenue collections and sinking fund and other debt retirement funds.]

Congress and session	Budget estimates	Appropriations	Increase (+) or decrease (−), appropriations compared with estimates with estimates
95th Cong., 1st sess.:			
Fiscal year 1978 and prior fiscal years	[36] $540,713,958,174	[37] $527,330,473,509	−$13,383,484,665
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(366,590,877,174)*	*(354,014,030,783)*	*(−12,576,846,391)*
Rescission acts	[29] *(−1,779,480,000)*	*(−807,640,000)*	*(−807,640,000)*
Appropriations in legislative acts		[38] *(1,001,726)*	*(+1,001,726)*
Permanent appropriations, Federal and trust funds	*(235,215,056,000)*	*(235,215,056,000)*	
Adjustments for interfund and intragovernmental transactions	*(−61,091,975,000)*	*(−61,091,975,000)*	
95th Cong., 2d sess.:			
Fiscal year 1979 and prior fiscal years	[39] 597,475,620,701	[40] 579,378,264,134	−18,097,356,567
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(373,829,695,701)*	*(353,538,353,730)*	*(−20,291,341,971)*
Rescission acts	[29] *(−603,255,000)*	*(−55,255,000)*	*(−55,255,000)*
Appropriations in legislative acts	*(17,349,285,000)*	[41] *(19,598,525,404)*	*(+2,249,240,404)*
Permanent appropriations, Federal and trust funds	*(269,875,638,000)*	*(269,875,638,000)*	
Adjustments for interfund and intragovernmental transactions	*(−63,578,998,000)*	*(−63,578,998,000)*	
96th Cong., 1st sess.:			
Fiscal year 1980 and prior fiscal years	[42] 638,492,625,836	[43] 623,190,712,474	*(−15,301,913,362)*
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(402,717,061,836)*	*(388,138,756,291)*	*(−14,578,305,545)*
Rescission acts	[29] *(−914,617,000)*	*(−723,609,000)*	*(−723,609,000)*
Appropriations in legislative acts		[44] *(+1,183)*	*(+1,183)*
Permanent appropriations, Federal and trust funds	*(308,995,920,000)*	*(308,995,920,000)*	
Adjustments for interfund and intragovernmental transactions	*(−73,220,356,000)*	*(−73,220,356,000)*	
96th Cong., 2d sess.:			
Fiscal year 1981 and prior fiscal years	[45] 716,540,499,292	[46] 696,792,053,346	*(−19,748,445,946)*
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(453,514,910,292)*	*(433,765,621,344)*	*(−19,749,288,948)*
Rescission acts			
Appropriations in legislative acts		[44] *(+843,002)*	*(+843,002)*
Permanent appropriations, Federal and trust funds	*(351,616,467,000)*	*(351,616,467,000)*	
Adjustments for interfund and intragovernmental transactions	*(−88,590,878,000)*	*(−88,590,878,000)*	

See footnotes on pp. 2396-2398.

IX. COMPARISON OF BUDGET ESTIMATES AND APPROPRIATIONS BY SESSIONS OF CONGRESS—Continued

[NOTE.—Concept of "budget estimates" and "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts not included in this tabulation prior to the 90th Cong., 2d sess. (See explanation, par. 7 "Compilers' Notes", p. III.) Also, beginning with the 85th Cong., 2d sess. (fiscal year 1959), figures *exclude* amounts relating to refunding Internal Revenue collections and sinking fund and other debt retirement funds.]

Congress and session	Budget estimates	Appropriations	Increase (+) or decrease (−), appropriations compared with estimates with estimates
97th Cong., 1st sess.:			
Fiscal year 1982 and prior fiscal years	[47] $770,438,061,450	[48] $755,274,775,261	−$15,163,286,189
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(452,000,228,450)*	*(436,836,942,261)*	*(−15,163,286,189)*
Rescission acts			
Appropriations in legislative acts			
Permanent appropriations, Federal and trust funds	*(427,399,947,000)*	*(427,399,947,000)*	
Adjustments for interfund and intragovernmental transactions	*(−108,962,114,000)*	*(−108,962,114,000)*	
97th Cong., 2d sess.:			
Fiscal year 1983 and prior fiscal years	[49] 855,549,160,484	[50] 862,835,894,982	+7,286,734,498
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(511,543,914,484)*	*(507,201,582,060)*	*(−4,342,332,424)*
Rescission acts			
Appropriations in legislative acts	*(3,220,000,000)*	*(14,849,000,000)*	*(+11,629,000,000)*
Private appropriation acts		*(66,922)*	*(+66,922)*
Permanent appropriations, Federal and trust funds	*(475,786,994,000)*	*(475,786,994,000)*	
Adjustments for interfund and intragovernmental transactions	*(−135,001,748,000)*	*(−135,001,748,000)*	
98th Cong., 1st sess.:			
Fiscal year 1984 and prior fiscal years	[51] 930,234,128,985	[52] 946,627,586,722	+16,393,457,737
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(543,716,482,985)*	*(549,717,909,104)*	*(+6,001,426,119)*
Rescission acts			
Appropriations in legislative acts	*(14,950,000,000)*	*(25,342,000,000)*	*(+10,392,000,000)*
Private appropriation acts		*(31,618)*	*(+31,618)*
Permanent appropriations, Federal and trust funds	*(519,189,631,000)*	*(519,189,631,000)*	
Adjustments for interfund and intragovernmental transactions	*(−147,621,985,000)*	*(−147,621,985,000)*	
98th Cong., 2d sess.:			
Fiscal year 1985 and prior fiscal years	[53] 1,015,565,170,980	[54] 997,027,809,066	−18,537,361,914
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(579,375,055,980)*	*(560,627,524,986)*	*(−18,747,530,994)*
Rescission acts			
Appropriations in legislative acts		*(210,000,000)*	*(+210,000,000)*
Private appropriation acts			
Permanent appropriations, Federal and trust funds	*(619,354,391,000)*	*(619,354,391,000)*	
Adjustments for interfund and intragovernmental transactions	*(−183,164,276,000)*	*(−183,164,276,000)*	

See footnotes on pp. 2396–2398.

IX. COMPARISON OF BUDGET ESTIMATES AND APPROPRIATIONS BY SESSIONS OF CONGRESS—Continued

[NOTE.—Concept of "budget estimates" and "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts not included in this tabulation prior to the 90th Cong., 2d sess. (See explanation, par. 7 "Compilers' Notes", p. III.) Also, beginning with the 85th Cong., 2d sess. (fiscal year 1959), figures *exclude* amounts relating to refunding Internal Revenue collections and sinking fund and other debt retirement funds.]

Congress and session	Budget estimates	Appropriations	Increase (+) or decrease (−), appropriations compared with estimates with estimates
99th Cong., 1st sess.:			
Fiscal year 1986 and prior fiscal years	[55] $1,095,466,342,939	[56] $1,086,123,592,087	−$9,342,750,852
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(591,917,552,939)*	*(578,038,802,087)*	*(−13,878,750,852)*
Rescission acts			
Appropriations in legislative acts	*(−2,460,000,000)*	*(2,076,000,000)*	*(+4,536,000,000)*
Private appropriation acts			
Permanent appropriations, Federal and trust funds	*(698,620,815,000)*	*(698,620,815,000)*	
Adjustments for interfund and intragovernmental transactions	*(−192,612,025,000)*	*(−192,612,025,000)*	
99th Cong., 2d sess.:			
Fiscal year 1987 and prior fiscal years	[57] 1,116,382,025,594	[58] 1,098,037,263,019	−18,344,762,575
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(591,331,083,594)*	*(572,498,232,494)*	*(−18,832,851,100)*
Rescission acts			
Appropriations in legislative acts	*(2,808,000,000)*	*(3,296,000,000)*	*(+488,000,000)*
Private appropriation acts		*(88,525)*	*(+88,525)*
Permanent appropriations, Federal and trust funds	*(716,934,017,000)*	*(716,934,017,000)*	
Adjustments for interfund and intragovernmental transactions	*(−194,691,075,000)*	*(−194,691,075,000)*	
100th Cong., 1st sess.:			
Fiscal year 1988 and prior fiscal years	[59] 1,265,727,874,956	[60] 1,171,630,627,150	−94,097,247,806
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(702,395,151,956)*	*(611,244,904,150)*	*(−91,150,247,806)*
Rescission acts			
Appropriations in legislative acts	*(15,322,000,000)*	*(12,375,000,000)*	*(−2,947,000,000)*
Private appropriation acts			
Permanent appropriations, Federal and trust funds	*(757,348,556,000)*	*(757,348,556,000)*	
Adjustments for interfund and intragovernmental transactions	*(−209,337,833,000)*	*(−209,337,833,000)*	
100th Cong., 2d sess.:			
Fiscal year 1989 and prior fiscal years	[61] 1,332,022,967,756	[62] 1,238,572,986,189	−93,449,981,567
Consisting of:			
Regular annual and supplemental appropriation acts (net)	*(715,576,199,756)*	*(621,528,217,769)*	*(−94,047,981,987)*
Rescission act		*(−8,000,000)*	*(−8,000,000)*
Appropriations in legislative acts	*(1,375,000,000)*	*(1,980,000,000)*	*(+605,000,000)*
Private appropriation acts		*(1,000,420)*	*(+1,000,420)*
Permanent appropriations, Federal and trust funds	*(833,050,818,000)*	*(833,050,818,000)*	
Adjustments for interfund and intragovernmental transactions	*(−217,979,050,000)*	*(−217,979,050,000)*	

[1] Includes $225,000,000 requested in 1965 for fiscal year 1966.
[2] Includes $75,000,000 appropriated in 1965 for fiscal year 1966.
[3] Includes $937,500,000 requested in 1966 for fiscal year 1967.
[4] Includes $926,000,000 appropriated in 1966 for fiscal year 1967.
[5] Includes $900,000,000 requested in 1967 for fiscal year 1968.
[6] Includes $875,000,000 appropriated in 1967 for fiscal year 1968.
[7] Includes $1,055,000,000 requested in 1968 for fiscal year 1969.
[8] Includes $995,000,000 appropriated in 1968 for fiscal year 1969.
[9] Does not reflect additional reductions in controllable obligations effected pursuant to Public Law 90-218 (H.J. Res. 888) estimated at $3,400,617,000 on June 30, 1968. Reserves established $6,075,520,000; reserves subsequently released, $2,674,903,000; reserves remaining $3,400,617,000.
[10] Totals adjusted to *exclude* $12,800,000,000 of interfund and intragovernmental transactions—see par. 4, "Compilers' Notes", p. IV. Budget estimates include $2,895,000,000 requested in 1969 for fiscal year 1970.
[11] Totals adjusted to *exclude* $12,800,000,000 of interfund and intragovernmental transactions—see par. 4. "Compilers' Notes", p. IV. Appropriations include $1,965,814,300 appropriated in 1969 for fiscal year 1970.
[12] Totals adjusted to *exclude* $13,915,525,000 of interfund and intragovernmental transactions—see par. 4, "Compilers' Notes", p. IV. Budget estimates include $1,651,000,000 requested in 1970 for fiscal year 1971.
[13] Totals adjusted to *exclude* $13,915,525,000 of interfund and intragovernmental transactions—see par. 4, "Compilers' Notes", p. IV. Appropriations include $214,000,000 appropriated in 1970 for fiscal year 1971.

IX. COMPARISON OF BUDGET ESTIMATES AND APPROPRIATIONS BY SESSIONS OF CONGRESS—Continued

[14] Totals adjusted to *exclude* $18,232,767,000 of interfund and intragovernmental transactions—see par. 4, "Compilers' Notes", p. IV. Budget estimates include $188,011,000 requested in 1971 for fiscal year 1972.

[15] Totals adjusted to *exclude* $18,232,767,000 of interfund and intragovernmental transactions—see par. 4, "Compilers' Notes", p. IV. Appropriations include $150,000,000 appropriated in 1971 for fiscal year 1972.

[16] Totals adjusted to *exclude* $20,404,398,000 of interfund and intragovernmental transactions—see par. 4, "Compilers' Notes", p. IV. Budget estimates include $174,321,000 requested in 1972 for fiscal year 1973.

[17] Totals adjusted to *exclude* $20,404,398,000 of interfund and intragovernmental transactions—see par. 4, "Compilers' Notes", p. IV. Appropriations include $174,321,000 appropriated in 1972 for fiscal year 1973.

[18] Totals adjusted to *exclude* $23,914,645,000 of interfund and intragovernmental transactions—see par. 4, "Compilers' Notes", p. IV. Budget estimates include $131,181,000 requested in 1973 for fiscal year 1974.

[19] Totals adjusted to *exclude* $23,914,645,000 of interfund and intragovernmental transactions—see par. 4, "Compilers' Notes", p. IV. Appropriations include $131,181,000 appropriated in 1973 for fiscal year 1974.

[20] Includes appropriations totaling $33,499,495,500 in continuing resolution (Public Law 92-571) for Foreign Assistance and related programs ($3,652,701,000), and the Departments of Labor, and Health, Education, and Welfare and related agencies ($29,846,794,500), and reflects an increase of $46,794,500 in the amount for Labor-HEW carried in the 1972-1973 volume due to later estimates.

[21] Totals adjusted to *exclude* $37,257,990,000 of interfund and intragovernmental transactions—see par. 4, "Compilers' Notes", p. IV. Budget estimates *include* (1) $90,360,000 requested in 1974 for fiscal year 1975 and (2) proposed rescissions of fiscal year 1973 appropriations of $198,055,000; and *exclude* (1) decreases of $965,788,000 submitted in 1974 budget as amendments to 1973 budget requests and not acted upon, and (2) proposed rescissions of fiscal year 1973 appropriations totaling $382,888,000 which the Congress did not approve.

[22] Totals adjusted to *exclude* $37,257,990,000 of interfund and intragovernmental transactions—see par. 4, "Compilers' Notes", p. IV. Appropriations figure *includes* (1) $90,360,000 appropriated in 1974 for fiscal year 1975 and (2) rescissions of fiscal year 1973 appropriations totaling $212,412,000; and *excludes* action by the Congress in declining to approve proposed rescissions of fiscal year 1973 appropriations totaling $382,888,000.

[23] Totals adjusted to *exclude* $43,723,976,000 of interfund and intragovernmental transactions—see par. 4, "Compilers' Notes", p. IV. Budget estimates *include* $2,391,561,000 requested in fiscal year 1975 for fiscal year 1976, and proposed rescissions totaling $1,455,116,000 in regular appropriation and rescission acts (see table VIIIj on p. 2427 1974-1975 volume for detail).

[24] Totals adjusted to *exclude* $43,723,976,000 of interfund and intragovernmental transactions—see par. 4, "Compilers' Notes", p. IV. Appropriations figure *includes* $2,428,597,000 appropriated in fiscal 1975 for fiscal year 1976, and rescissions totaling $1,404,572,000 consisting of $1,319,481,000 in regular appropriation and rescission acts and $85,091,000 in legislative acts (see table VIIIj on p. 2427 1974-1975 volume for detail).

[25] Includes increase of $45,022,070,000 (budget estimate, $5,098,000,000; allowance, $50,120,070,000) which reflects 40-year run-out cost of annual contract authority made available through Public Law 93-383.

[26] Includes private acts totaling $165,913.

[27] Totals adjusted to *exclude* interfund and intragovernmental transactions of $54,266,141,000 for fiscal year 1976 and $10,730,549,000 for the transition period—see par. 4, "Compilers' Notes", p. IV. Budget estimates *include* $2,417,777,000 requested in fiscal year 1976 for fiscal year 1977, and *exclude* proposed rescissions totaling $25,000,000 considered in a regular annual appropriation act (Public Law 94-134).

[28] Totals adjusted to *exclude* interfund and intragovernmental transactions of $54,266,141,000 for fiscal year 1976 and $10,730,549,000 for the transition period—see par. 4, "Compilers' Notes", p. IV. Appropriations figure *includes* $2,653,410,852 appropriated in fiscal year 1976 for fiscal year 1977, and rescissions totaling $702,291,174 consisting of $25,000,000 in a regular annual appropriation act, $287,291,174 in rescission acts and $390,000,000 in a legislative act.

[29] Estimates not reflected in totals.

[30] Includes private acts totaling $27,286.

[31] Totals adjusted to *exclude* interfund and intragovernmental transactions of $62,368,318,000 for fiscal year 1977—see par. 4, "Compilers' Notes", p. IV. Budget estimates include $95,421,779 for fiscal year 1978 and $90,000,000 for fiscal year 1979 requested in fiscal year 1977.

[32] Totals adjusted to *exclude* interfund and intragovernmental transactions of $62,368,318,000 for fiscal year 1977—see par. 4, "Compilers' Notes", p. IV. Appropriations figure includes $557,049,779 for fiscal year 1978 and $256,200,000 for fiscal year 1979 appropriated in fiscal year 1977, and rescissions totaling $243,378,943 consisting of $172,722,943 in a regular annual appropriation act and $70,656,000 in rescission acts.

[33] Reflects rescissions of $5,175,000.

[34] Includes private acts totaling $878,473.

[35] Includes private acts totaling $23,260.

[36] Totals adjusted to *exclude* interfund and intragovernmental transactions of $61,091,975,000 for fiscal year 1978—see par. 4, "Compilers' Notes", p. IV. Budget estimates include $120,200,000 for fiscal year 1980 requested in fiscal year 1978.

[37] Totals adjusted to *exclude* interfund and intragovernmental transactions of $61,091,975,000 for fiscal year 1978—see par. 4, "Compilers' Notes", p. IV. Appropriations figure includes $152,000,000 for fiscal year 1980 appropriated in fiscal year 1978, and rescissions totaling $833,854,000 consisting of $26,214,000 in regular annual appropriation acts and $807,640,000 in rescission acts. Also reflects rescission of $47,500,000 in permanent contract authority for the "Helium fund," Bureau of Mines, Department of the Interior. Permanent contract authority amount shown in estimate column and rescinded in the Department of the Interior Appropriation Act, 1978 (Public Law 95-74).

[38] Includes private acts totaling $1,726.

[39] Totals adjusted to *exclude* interfund and intragovernmental transactions of $63,578,998,000 for fiscal year 1979—see par. 4, "Compilers' Notes", p. IV. Budget estimates include $17,646,443,000, excluded from the 1978-79 volume, for programs for the Departments of Labor, and Health, Education, and Welfare and related agencies, funded at the "current rate" in the continuing resolution (Public Law 95-482). This amount has been increased by $198,300,000 above the $17,448,143,000 referred to in footnote 39 of the 1978-79 volume (for details, see table VIII on pp. 1221-1222, 1979-80 volume). Budget estimates also *include* $9,835,000,000 for fiscal year 1980, $4,627,000,000 for fiscal year 1981; and $4,465,000,000 for fiscal year 1982 requested in fiscal year 1979.

[40] Totals adjusted to *exclude* interfund and intragovernmental transactions of $63,578,998,000 for fiscal year 1979—see par. 4, "Compilers' Notes", p. IV. Appropriations figure includes $15,427,919,000, excluded from the 1978-79 volume, for programs for the Departments of Labor, and Health, Education, and Welfare and related agencies, funded at the "current rate" in the continuing resolution (Public Law 95-482). Estimates for these programs total $17,646,443,000 and reflect an increase of $198,300,000 above the $17,448,143,000 referred to in footnote 40 of the 1978-79 volume (for details, see table VIII on pp. 1221-1222, 1979-80 volume). Appropriations figure also includes $5,136,500,000 for fiscal year 1980, $5,615,000,000 for fiscal year 1981, and $4,374,000,000 for fiscal year 1982 appropriated in fiscal year 1979, and rescissions totaling $518,655,000 consisting of $463,400,000 in the Supplemental Appropriations Act, 1978 (Public Law 95-240) and $55,255,000 in rescission acts. Also reflects rescission of $47,500,000 in permanent contract authority for the "Helium fund," Bureau of Mines, Department of the Interior. Permanent contract authority amount shown in estimate column and rescinded in the Department of the Interior Appropriation Act, 1979 (Public Law 95-465).

[41] Includes private acts totaling $1,325,404.

[42] Totals adjusted to *exclude* interfund and intragovernmental transactions of $73,220,356,000 for fiscal year 1980—see par. 4, "Compilers' Notes", p. IV. Budget estimates include $662,319,000 excluded from the 1979-80 volume (96th Congress, 1st session) for programs for the Department of Health, Education and Welfare and related agencies, funded at the "current rate" in the continuing resolution (Public Law 96-123). This amount has been increased by $14,425,000 above the $647,894,000 referred to in footnote 42 of the 1979-80 volume (for details, see table VIII on p. 1959, 1980-81 volume). Budget estimates also include $162,000,000 for fiscal year 1981, and $172,000,000 for fiscal year 1982 requested in fiscal year 1980.

[43] Totals adjusted to *exclude* interfund and intragovernmental transactions of $73,220,356,000 for fiscal year 1980—see par. 4, "Compilers' Notes", p. IV. Appropriations figures includes $1,146,946,000, excluded from the 1979-80 volume (96th Congress, 1st session), for programs for the Department of Health, Education and Welfare and related agencies, funded at the "current rate" in the continuing resolution (Public Law 96-123). Estimates for these programs total $662,319,000 and reflect an increase of $14,425,000 above the $647,894,000 referred to in footnote 43 of the 1979-80 volume (for details, see table VIII on p. 1959, 1980-81 volume). Appropriations figure also *includes* $162,000,000 for fiscal year 1981, and $172,000,000 for fiscal year 1982 appropriated in fiscal year 1980, and rescissions totaling $1,636,709,000 consisting of $913,100,000 in regular annual appropriation acts and $723,609,00 in rescission acts. Also reflects rescission of $47,500,000 in permanent contract authority for the "Helium fund," Bureau of Mines, Department of the Interior. Permanent contract authority amount shown in estimate column and rescinded in the Department of the Interior Appropriation Act, 1980 (Public Law 96-126).

[44] Consists of private appropriation acts.

IX. COMPARISON OF BUDGET ESTIMATES AND APPROPRIATIONS BY SESSIONS OF CONGRESS—Continued

[48] Totals adjusted to *exclude* interfund and intragovernmental transactions of $88,590,878,000 for fiscal year 1981—see par. 4, "Compilers' Notes", p. IV. Budget estimates *include* $198,100,000 for fiscal year 1982; and $172,000,000 for fiscal year 1983 requested in fiscal year 1981. Budget estimates *exclude* $6,954,927,000 for fiscal year 1981 to liquidate "indefinite" budget authority requested in fiscal year 1980 for certain programs in the Department of Health and Human Services (there were no estimates included in any of the fiscal year 1980 tabulations (1979–80 volume) for these indefinite amounts), but *include* $6,914,793,000 in "indefinite" budget authority for fiscal year 1981 which will be adjusted in fiscal year 1982 (1981–82 volume) when final amounts become known (see table VIII on pp. 2039–2040, 1980–81 volume, for accounts involved).

[49] Totals adjusted to *exclude* interfund and intragovernmental transactions of $88,590,878,000 for fiscal year 1981—see par. 4, "Compilers' Notes", p. IV. Appropriations figure *includes* $166,000,000 for fiscal year 1982 and $172,000,000 for fiscal year 1983 appropriated in fiscal year 1981, and rescissions totaling $4,518,572,146 consisting of $1,335,000,000 in regular annual appropriation acts and $3,183,572,146 in supplemental acts. Totals also *exclude* $6,954,927,000 appropriated in fiscal year 1981 to liquidate "indefinite" budget authority provided in fiscal year 1980 for certain programs in the Department of Health and Human Services (there were no figures provided in any of the fiscal year 1980 tabulations (1979–80 volume) for these indefinite amounts). *Includes* authority to obligate $6,914,793,000 in "indefinite" budget authority during fiscal year 1981 which will be adjusted and liquidated in fiscal year 1982 (1981–82 volume) when final amounts become known (see table VIII on pp. 2039–2040, 1980–81 volume, for accounts involved).

[47] Totals adjusted to *exclude* interfund and intragovernmental transactions of $108,962,114,000 for fiscal year 1982—see par. 4, "Compilers' Notes", p. IV. Budget estimates *include* $1,750,753,000 for fiscal year 1983; and $93,500,000 for fiscal year 1984 requested in fiscal year 1982. Budget estimates *exclude* $6,466,410,000 for fiscal year 1982 to liquidate "indefinite" budget authority requested in fiscal year 1981 for certain programs in the Department of Health and Human Services (estimate of $6,914,793,000 carried in 1980–81 volume), but *include* $4,916,000,000 in "indefinite" budget authority for fiscal year 1982 which will be adjusted in fiscal year 1983 (1982–83 volume) when final amounts become known (see table VIII on pp. 1390–1391, 1981–82 volume, for accounts involved).

[48] Totals adjusted to *exclude* interfund and intragovernmental transactions of $108,962,114,000 for fiscal year 1982—see par. 4, "Compilers' Notes", p. IV. Appropriations figure *includes* $1,787,341,000 for fiscal year 1983; and $105,600,000 for fiscal year 1984 appropriated in fiscal year 1982, and rescissions totaling $16,064,086,447 consisting of $1,805,207,800 in regular annual appropriation acts including continuing resolutions and $14,258,878,647 in supplemental acts. Totals also *exclude* $6,379,418,000 appropriated in fiscal year 1982 to liquidate "indefinite" budget authority provided in fiscal year 1981 for certain programs in the Department of Health and Human Services ($6,914,793,000 included in 1980–81 volume). *Includes* authority to obligate $4,615,600,000 in "indefinite" budget authority during fiscal year 1982 which will be adjusted and liquidated in fiscal year 1983 (1982–83 volume) when final amounts become known (see table VIII on pp. 1390–1391, 1981–82 volume, for accounts involved).

[49] Totals adjusted to *exclude* interfund and intragovernmental transactions of $135,001,748,000 for fiscal year 1983—see par. 4, "Compilers' Notes", p. IV. Budget estimates *include* $5,919,703,000 for fiscal year 1984 and $85,000,000 for fiscal year 1985 requested in fiscal year 1983. Budget estimates *exclude* $4,847,792,000 for fiscal year 1983 to liquidate "indefinite" budget authority requested in fiscal year 1982 for certain programs in the Department of Health and Human Services (estimate of $4,916,000,000 carried in 1981–82 volume). See table VIII footnote 22 on p. 1535, 1982–83 volume, for accounts involved.

[50] Totals adjusted to *exclude* interfund and intragovernmental transactions of $135,001,748,000 for fiscal year 1983—see par. 4, "Compilers' Notes", p. IV. Appropriations figure *includes* $6,976,000,000 for fiscal year 1984; and $130,000,000 for fiscal year 1985 appropriated in fiscal year 1983, and rescissions totaling $8,967,781,500 consisting of $2,888,815,500 in regular annual appropriation acts including continuing resolutions and $6,078,966,000 in supplemental acts. Totals also *exclude* $5,492,377,000 appropriated in fiscal year 1983 to liquidate "indefinite" budget authority provided in fiscal year 1982 for certain programs in the Department of Health and Human Services (estimated at $4,615,600,000 in 1981–82 volume). See table VIII footnote 22 on p. 1535, 1982–83 volume, for accounts involved.

[51] Totals adjusted to *exclude* interfund and intragovernmental transactions of $147,621,985,000 for fiscal year 1984—see par. 4, "Compilers' Notes", p. IV. Budget estimates *include* $7,442,204,000 for fiscal year 1985 and $75,000,000 for fiscal year 1986 requested in fiscal year 1984. Budget estimates *exclude* $35,378,000 for fiscal year 1984 to liquidate "indefinite" budget authority requested in fiscal year 1983 for certain programs in the Department of Health and Human Services. See table VIII, footnote 7 on p. 1129, 1983–84 volume, for accounts involved.

[52] Totals adjusted to *exclude* interfund and intragovernmental transactions of $147,621,985,000 for fiscal year 1984—see par. 4, "Compilers' Notes", p. IV. Appropriations figure *includes* $7,772,000,000 for fiscal year 1985 and $130,000,000 for fiscal year 1986 appropriated in fiscal year 1984, and rescissions totaling $4,616,128,000 consisting of $2,956,897,000 in regular annual appropriation acts and $1,659,231,000 in supplemental acts. Totals also *exclude* $323,000,000 appropriated in fiscal year 1984 to liquidate "indefinite" budget authority provided in fiscal year 1983 for certain programs in the Department of Health and Human Services. See table VIII, footnote 7 on p. 1129, 1983–84 volume, for accounts involved.

[53] Totals adjusted to *exclude* interfund and intragovernmental transactions of $183,164,276,000 for fiscal year 1985—see par. 4, "Compilers' Notes", p. IV. Budget estimates *include* $10,568,600,000 for fiscal year 1986 and $100,000,000 for fiscal year 1987 requested in fiscal year 1985. Budget estimates *exclude* $36,786,000 for fiscal year 1985 to liquidate "indefinite" budget authority requested in fiscal year 1984 for certain programs in the Department of Health and Human Services. See table VIII, footnote 5, on p. 1905, 1984–85 volume, for accounts involved.

[54] Totals adjusted to *exclude* interfund and intragovernmental transactions of $183,164,276,000 for fiscal year 1985—see par. 4, "Compilers' Notes", p. IV. Appropriations figure *includes* $10,885,169,000 for fiscal year 1986 and $200,000,000 for fiscal year 1987 appropriated in fiscal year 1985, and rescissions totaling $10,539,178,000 consisting of $10,129,461,000 in regular annual appropriation acts and $409,717,000 in supplemental acts. Totals also *exclude* $429,786,000 appropriated in fiscal year 1985 to liquidate "indefinite" budget authority provided in fiscal year 1984 for certain programs in the Department of Health and Human Services. See table VIII, footnote 5, on p. 1905, 1984–85 volume, for accounts involved.

[55] Totals adjusted to *exclude* interfund and intragovernmental transactions of $192,612,025,000 for fiscal year 1986—see par. 4, "Compilers' Notes", p. IV. Budget estimates *includes* $11,473,754,000 for fiscal year 1987 and $214,000,000 for fiscal year 1988 requested in fiscal year 1986. Budget estimates *exclude* $809,573,000 for fiscal year 1986 to liquidate "indefinite" budget authority requested in fiscal year 1985 for certain programs in the Department of Health and Human Services. See table VIII, footnote 5 on p. 1756, 1985–86 volume, for accounts involved.

[56] Totals adjusted to *exclude* interfund and intragovernmental transactions of $192,612,025,000 for fiscal year 1986—see par. 4, "Compilers' Notes", p. IV. Appropriations figure *includes* $11,493,754,000 for fiscal year 1987 and $214,000,000 for fiscal year 1988 appropriated in fiscal year 1986, and rescissions totaling $8,555,956,000 consisting of $7,815,000,000 in regular annual appropriation acts including continuing resolutions and $740,956,000 in supplemental acts. Totals also *exclude* $1,329,834,000 appropriated in fiscal year 1986 to liquidate "indefinite" budget authority provided in fiscal year 1985 for certain programs in the Department of Health and Human Services. See table VIII, footnote 5, on p. 1756, 1985–86 volume, for accounts involved.

[57] Totals adjusted to *exclude* interfund and intragovernmental transactions of $194,691,075,000 for fiscal year 1987—see par. 6, "Compilers' Notes", p. IV. Budget estimates *includes* $12,819,065,000 for fiscal year 1988 and $292,000,000 for fiscal year 1989 requested in fiscal year 1987.

[58] Totals adjusted to *exclude* interfund and intragovernmental transactions of $194,691,075,000 for fiscal year 1987—see par. 6, "Compilers' Notes", p. IV. Appropriations figure *includes* $12,852,265,000 for fiscal year 1988 and $452,000,000 for fiscal year 1989 appropriated in fiscal year 1987, and rescissions totaling $19,277,677,000 consisting of $6,281,753,000 in regular annual appropriation acts including continuing resolutions and $12,995,924,000 in supplemental acts.

[59] Totals adjusted to *exclude* interfund and intragovernmental transactions of $209,337,833,000 for fiscal year 1988—see par. 6, "Compilers' Notes", p. IV. Budget estimates *includes* $84,969,423,000 for fiscal year 1989, $14,709,992,000 for fiscal year 1990, $500,000,000 for fiscal year 1991, and $500,000,000 for fiscal year 1992, requested in fiscal year 1988.

[60] Totals adjusted to *exclude* interfund and intragovernmental transactions of $209,337,833,000 for fiscal year 1988—see par. 6, "Compilers' Notes", p. IV. Appropriations figure *includes* $14,295,000,000 for fiscal year 1989 and $232,648,000 for fiscal year 1990 appropriated in fiscal year 1988, and rescissions totaling $4,673,059,067 consisting of $4,072,371,067 in regular annual appropriation acts including continuing resolutions and $600,688,000 in supplemental acts.

[61] Totals adjusted to *exclude* interfund and intragovernmental transactions of $217,979,050,000 for fiscal year 1989—see "Compilers' Notes", p. IV. Budget estimates *includes* $96,462,145,000 for fiscal year 1990, $16,781,000,000 for fiscal year 1991, and $600,000,000 for fiscal year 1992, requested in fiscal year 1989

[62] Totals adjusted to *exclude* interfund and intragovernmental transactions of $217,979,050,000 for fiscal year 1989—see "Compilers' Notes", p. IV. Appropriations figure *includes* $15,648,555,000 for fiscal year 1990 and $498,870,000 for fiscal year 1991 appropriated in fiscal year 1989, and rescissions totaling $591,048,000 consisting of $571,048,000 in regular annual appropriation acts, $12,000,000 in supplemental acts and $8,000,000 in rescission act.

X. TOTAL APPROPRIATIONS BY SESSIONS OF CONGRESS

[NOTE.—As explained in par. 7, "Compilers' Notes", p. III, aggregate totals of appropriations in this volume, beginning with the one for the 90th Cong., 2d sess., include trust fund appropriations not previously emphasized in general tabulations and summaries. The trust fund amounts in this table for the fiscal years 1938-68, inclusive, are derived from footnotes carried to table X in the volume for the 90th Cong., 1st sess., and being estimates thereof as shown in the respective annual budgets, are to some extent approximate. Permanent trust fund amounts for the 100th Cong., 2d sess., are based on estimates in the January 1988 Budget, and are thus subject to revision when actual amounts become known. Permanent "Federal" fund amounts are also based on estimates thereof as shown in the respective annual budgets, and are thus also subject to revision when actual amounts become known.]

Congress and session	Federal funds	Trust funds	Total
42d Cong., 2d sess., fiscal year 1873 and prior years	$330,546,360		$330,546,360
42d Cong., 3d sess., fiscal year 1874 and prior years	344,535,209		344,535,209
43d Cong., 1st sess., fiscal year 1875 and prior years	330,441,844		330,441,844
43d Cong., 2d sess., fiscal year 1876 and prior years	322,013,149		322,013,149
44th Cong., 1st sess., fiscal year 1877 and prior years	299,150,125		299,150,125
44th Cong., 2d sess., fiscal year 1878 and prior years	291,220,477		291,220,477
45th Cong., 1st and 2d sess., fiscal year 1879 and prior years	317,924,555		317,924,555
45th Cong., 3d sess., and 46th Cong., 1st sess., fiscal year 1880 and prior years	338,865,031		338,865,031
46th Cong., 2d sess., fiscal year 1881 and prior years	332,791,077		332,791,077
46th Cong., 3d sess., fiscal year 1882 and prior years	361,922,068		361,922,068
47th Cong., 1st sess., fiscal year 1883 and prior years	423,827,294		423,827,294
47th Cong., 2d sess., fiscal year 1884 and prior years	349,463,261		349,463,261
48th Cong., 1st sess., fiscal year 1885 and prior years	306,077,470		306,077,470
48th Cong., 2d sess., fiscal year 1886 and prior years	344,504,413		344,504,413
49th Cong., 1st sess., fiscal year 1887 and prior years	383,245,914		383,245,914
49th Cong., 2d sess., fiscal year 1888 and prior years	365,430,333		365,430,333
50th Cong., 1st sess., fiscal year 1889 and prior years	422,867,168		422,867,168
50th Cong., 2d sess., fiscal year 1890 and prior years	395,430,284		395,430,284
51st Cong., 1st sess., fiscal year 1891 and prior years	463,383,480		463,383,480
51st Cong., 2d sess., fiscal year 1892 and prior years	524,381,816		524,381,816
52d Cong., 1st sess., fiscal year 1893 and prior years	507,376,398		507,376,398
52d Cong., 2d sess., fiscal year 1894 and prior years	519,535,293		519,535,293
53d Cong., 1st and 2d sess., fiscal year 1895 and prior years	492,477,460		492,477,460
53d Cong., 3d sess., fiscal year 1896 and prior years	496,982,585		496,982,585
54th Cong., 1st sess., fiscal year 1897 and prior years	515,852,380		515,852,380
54th Cong., 2d sess. and 55th Cong., 1st sess., fiscal year 1898 and prior years	528,735,878		528,735,878
55th Cong., 2d sess., fiscal year 1899 and prior years	892,656,776		892,656,776
55th Cong., 3d sess., fiscal year 1900 and prior years	698,912,893		698,912,893
56th Cong., 1st sess., fiscal year 1901 and prior years	705,653,298		705,653,298

X. TOTAL APPROPRIATIONS BY SESSIONS OF CONGRESS—Continued

[NOTE.—As explained in par. 7, "Compilers' Notes", p. III, aggregate totals of appropriations in this volume, beginning with the one for the 90th Cong., 2d sess., include trust fund appropriations not previously emphasized in general tabulations and summaries. The trust fund amounts in this table for the fiscal years 1938–68, inclusive, are derived from footnotes carried to table X in the volume for the 90th Cong., 1st sess., and being estimates thereof as shown in the respective annual budgets, are to some extent approximate. Permanent trust fund amounts for the 100th Cong., 2d sess., are based on estimates in the January 1968 Budget, and are thus subject to revision when actual amounts become known. Permanent "Federal" fund amounts are also based on estimates thereof as shown in the respective annual budgets, and are thus also subject to revision when actual amounts become known.]

Congress and session	Federal funds	Trust funds	Total
56th Cong., 2d sess., fiscal year 1902 and prior years	$730,241,863		$730,241,863
57th Cong., 1st sess., fiscal year 1903 and prior years	801,682,773		801,682,773
57th Cong., 2d sess., fiscal year 1904 and prior years	752,741,659		752,741,659
58th Cong., 1st and 2d sess., fiscal year 1905 and prior years	781,288,215		781,288,215
58th Cong., 3d sess., fiscal year 1906 and prior years	818,191,283		818,191,283
59th Cong., 1st sess., fiscal year 1907 and prior years	881,953,644		881,953,644
59th Cong., 2d sess., fiscal year 1908 and prior years	919,163,823		919,163,823
60th Cong., 1st sess., fiscal year 1909 and prior years	1,006,431,727		1,006,431,727
60th Cong., 2d sess., fiscal year 1910 and prior years	1,044,433,623		1,044,433,623
61st Cong., 1st and 2d sess., fiscal year 1911 and prior years	1,039,550,617		1,039,550,617
61st Cong. 3d sess., fiscal year 1912 and prior years	1,022,759,949		1,022,759,949
62d Cong., 1st and 2d sess., fiscal year 1913 and prior years	1,021,349,991		1,021,349,991
62d Cong., 3d sess., fiscal year 1914 and prior years	1,098,602,066		1,098,602,066
63d Cong., 1st and 2d sess., fiscal year 1915 and prior years	1,122,471,919		1,122,471,919
63d Cong., 3d sess., fiscal year 1916 and prior years	1,114,490,704		1,114,490,704
64th Cong., 1st sess., fiscal year 1917 and prior years	1,628,441,645		1,628,441,645
64th Cong., 2d sess. and 65th Cong., 1st sess., fiscal year 1918 and prior years	18,881,940,244		18,881,940,244
65th Cong., 2d sess., fiscal year 1919 and prior years	27,065,148,933		27,065,148,933
65th Cong., 3d sess. and 66th Cong., 1st sess., fiscal year 1920 and prior years	6,454,596,650		6,454,596,650
66th Cong., 2d sess., fiscal year 1921 and prior years	4,780,829,510		4,780,829,510
66th Cong., 3d sess., and 67th Cong., 1st sess. (to July 12, 1921), fiscal year 1922 and prior years	3,909,282,209		3,909,282,209
67th Cong., 1st sess. (from July 12, 1921), and 67th Cong., 2d sess. (to July 1, 1922), fiscal year 1923 and prior years	4,248,140,570		4,248,140,570
67th Cong., 2d sess. (from July 2, 1922), and 67th Cong., 3d sess. and 67th Cong., 4th sess., fiscal year 1924 and prior years	4,092,544,312		4,092,544,312
68th Cong., 1st sess., fiscal year 1925 and prior years	3,748,651,750		3,748,651,750
68th Cong., 2d sess., fiscal year 1926 and prior years	4,151,682,050		4,151,682,050
69th Cong., 1st sess., fiscal year 1927 and prior years	4,409,463,390		4,409,463,390
69th Cong., 2d sess., fiscal year 1928 and prior years	4,211,011,353		4,211,011,353
70th Cong., 1st sess., fiscal year 1929 and prior years	4,633,577,974		4,633,577,974
70th Cong., 2d sess., fiscal year 1930 and prior years	4,665,236,678		4,665,236,678
71st Cong., 1st and 2d sess., fiscal year 1931 and prior years	5,071,711,694		5,071,711,694
71st Cong., 3d sess., fiscal year 1932 and prior years	5,178,524,968		5,178,524,968

X. TOTAL APPROPRIATIONS BY SESSIONS OF CONGRESS—Continued

[NOTE.—As explained in par. 7, "Compilers' Notes", p. III, aggregate totals of appropriations in this volume, beginning with the one for the 90th Cong., 2d sess., include trust fund appropriations not previously emphasized in general tabulations and summaries. The trust fund amounts in this table for the fiscal years 1938–68, inclusive, are derived from footnotes carried to table X in the volume for the 90th Cong., 1st sess., and being estimates thereof as shown in the respective annual budgets, are to some extent approximate. Permanent trust fund amounts for the 100th Cong., 2d sess., are based on estimates in the January 1988 Budget, and are thus subject to revision when actual amounts become known. Permanent "Federal" fund amounts are also based on estimates thereof as shown in the respective annual budgets, and are thus also subject to revision when actual amounts become known.]

Congress and session	Federal funds	Trust funds	Total
72d Cong., 1st sess., fiscal year 1933 and prior years	$5,785,252,642		$5,785,252,642
72d Cong., 2d sess. and 73d Cong., 1st sess., fiscal year 1934 and prior years	7,692,447,339		7,692,447,339
73d Cong., 2d sess., fiscal year 1935 and prior years	7,527,559,328		[1] 7,527,559,328
74th Cong., 1st sess., fiscal year 1936 and prior years	9,579,757,330		9,579,757,330
74th Cong., 2d sess., fiscal year 1937 and prior years	10,336,399,273		10,336,399,273
75th Cong., 1st sess., fiscal year 1938 and prior years	9,183,701,741	$172,473,242	9,356,174,983
75th Cong., 2d and 3d sess., fiscal year 1939 and prior years	10,338,996,190	1,022,819,464	11,361,815,654
76th Cong., 1st sess., fiscal year 1940 and prior years	11,447,634,077	1,904,152,417	13,351,786,494
76th Cong., 2d and 3d sess., fiscal year 1941 and prior years	16,878,865,242	2,193,125,902	19,071,991,144
77th Cong., 1st sess., fiscal year 1942 and prior years	57,792,715,367	3,062,440,985	60,855,156,352
77th Cong., 2d sess., fiscal year 1943 and prior years to Oct. 31, 1942	147,071,208,962	3,861,678,074	150,932,887,036
78th Cong., 1st sess., fiscal year 1944 and prior years	114,564,008,595	4,642,328,744	119,206,337,339
78th Cong., 2d sess., fiscal year 1945 and prior fiscal years	67,614,266,775	6,749,006,538	74,363,273,313
79th Cong., 1st sess., fiscal year 1946 and prior fiscal years	69,780,137,110	6,662,202,694	76,442,339,804
79th Cong., 2d sess., fiscal year 1947 and prior fiscal years	35,734,209,165	4,653,376,295	40,387,585,460
80th Cong., 1st sess., fiscal year 1948 and prior fiscal years	35,982,887,708	5,487,396,936	41,470,284,644
80th Cong., 2d sess., fiscal year 1949 and prior fiscal years	41,675,480,957	5,480,063,813	47,155,544,770
81st Cong., 1st sess., fiscal year 1950 and prior fiscal years	46,497,456,898	6,517,603,514	53,015,060,412
81st Cong., 2d sess., fiscal year 1951 and prior fiscal years	81,045,040,441	6,632,999,495	87,678,039,936
82d Cong., 1st sess., fiscal year 1952 and prior fiscal years	101,117,786,897	8,127,323,548	109,245,110,445
82d Cong., 2d sess., fiscal year 1953 and prior fiscal years	85,999,646,411	8,532,644,348	94,532,290,759
83d Cong., 1st sess., fiscal year 1954 and prior fiscal years	65,156,254,797	8,999,782,171	74,156,036,968
83d Cong., 2d sess., fiscal year 1955 and prior fiscal years	58,160,445,563	9,891,179,453	68,051,625,016
84th Cong., 1st sess., fiscal year 1956 and prior fiscal years	63,947,281,321	10,871,988,245	74,819,269,566
84th Cong., 2d sess., fiscal year 1957 and prior fiscal years	73,041,364,417	11,679,248,757	84,720,613,174
85th Cong., 1st sess., fiscal year 1958 and prior fiscal years	73,064,958,328	15,610,607,572	88,675,565,900
85th Cong., 2d sess., fiscal year 1959 and prior fiscal years	81,119,818,276	16,382,991,651	[2] 97,502,809,927
86th Cong., 1st sess., fiscal year 1960 and prior fiscal years	81,572,357,732	19,495,828,782	[2] 101,068,186,514
86th Cong., 2d sess., fiscal year 1961 and prior fiscal years	83,799,241,957	22,329,891,675	[2] 106,129,133,632
87th Cong., 1st sess., fiscal year 1962 and prior fiscal years	96,194,946,610	24,915,218,285	[2] 121,110,164,895
87th Cong., 2d sess., fiscal year 1963 and prior fiscal years	102,661,536,812	27,401,377,000	[2] 130,062,913,812

See footnotes on pp. 2406–2407.

X. TOTAL APPROPRIATIONS BY SESSIONS OF CONGRESS—Continued

[NOTE.—As explained in par. 7, "Compilers' Notes", p. III, aggregate totals of appropriations in this volume, beginning with the one for the 90th Cong., 2d sess., include trust fund appropriations not previously emphasized in general tabulations and summaries. The trust fund amounts in this table for the fiscal years 1933–68, inclusive, are derived from footnotes carried to table X in the volume for the 90th Cong., 1st sess., and being estimates thereof as shown in the respective annual budgets, are to some extent approximate. Permanent trust fund amounts for the 100th Cong., 2d sess., are based on estimates in the January 1988 Budget, and are thus subject to revision when actual amounts become known. Permanent "Federal" fund amounts are also based on estimates thereof as shown in the respective annual budgets, and are thus also subject to revision when actual amounts become known.]

Congress and session	Federal funds	Trust funds	Total
88th Cong., 1st sess., fiscal year 1964 and prior fiscal years	$103,798,634,671	$29,472,357,040	[1] $133,270,991,711
88th Cong., 2d sess., fiscal year 1965 and prior fiscal years	106,070,110,056	30,929,694,000	[3] 136,999,804,056
89th Cong., 1st sess., fiscal year 1966 and prior fiscal years	119,310,113,527	32,747,251,540	[2] 152,057,365,067
89th Cong., 2d sess., fiscal year 1967 and prior fiscal years	143,883,626,282	41,830,618,000	[2] 185,714,244,282
90th Cong., 1st sess., fiscal year 1968 and prior fiscal years	156,917,115,912	48,205,647,000	[2] 205,122,762,912
90th Cong., 2d sess., fiscal year 1969 and prior years	142,524,357,324	54,012,887,000	[2] 196,537,244,324
Consisting of:			
Regular annual and supplemental appropriation acts	*(133,339,868,734)*		*(133,339,868,734)*
Appropriations in legislative acts	*(2,999,227,590)*		*(2,999,227,590)*
Permanent appropriations	*(18,985,261,000)*	*(54,012,887,000)*	*(72,998,148,000)*
Adjustments for interfund and intragovernmental transactions	*(−12,800,000,000)*		*(−12,800,000,000)*
91st Cong., 1st sess., fiscal year 1970 and prior fiscal years	146,628,658,494	60,619,823,000	[2] 207,248,481,494
Consisting of:			
Regular annual and supplemental appropriation acts	*(134,431,463,135)*		*(134,431,463,135)*
Appropriations in legislative acts	*(4,680,127,359)*		*(4,680,127,359)*
Permanent appropriations	*(21,432,593,000)*	*(60,619,823,000)*	*(82,052,416,000)*
Adjustments for interfund and intragovernmental transactions	*(−13,915,525,000)*		*(−13,915,525,000)*
91st Cong., 2d sess., fiscal year 1971 and prior fiscal years	166,758,720,882	65,381,174,000	[2] 232,139,894,882
Consisting of:			
Regular annual and supplemental appropriation acts	*(144,273,528,504)*		*(144,273,528,504)*
Appropriations in legislative acts	*(18,039,291,378)*		*(18,039,291,378)*
Permanent appropriations	*(22,678,668,000)*	*(65,381,174,000)*	*(88,059,842,000)*
Adjustments for interfund and intragovernmental transactions	*(−18,232,767,000)*		*(−18,232,767,000)*
92d Cong., 1st sess., fiscal year 1972 and prior fiscal years	170,300,119,635	75,407,481,000	[2] 245,707,600,635
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts	*(165,300,661,865)*		*(165,300,661,865)*
Appropriations in legislative acts	*(46,645,770)*		*(46,645,770)*
Permanent appropriations	*(25,357,210,000)*	*(75,407,481,000)*	*(100,764,691,000)*
Adjustments for interfund and intragovernmental transactions	*(−20,404,398,000)*		*(−20,404,398,000)*
92d Cong., 2d sess., fiscal year 1973 and prior fiscal years	[3] 193,474,986,934	91,307,552,000	[2] [3] 284,782,538,934
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts	[3] *(179,006,901,364)*		[3] *(179,006,901,364)*
Appropriations in legislative acts	*(11,200,404,169)*		*(11,200,404,169)*
Permanent appropriations	*(27,182,326,401)*	*(91,307,552,000)*	*(118,489,878,401)*
Adjustments for interfund and intragovernmental transactions	*(−23,914,645,000)*		*(−23,914,645,000)*

See footnotes on pp. 2406–2407.

X. TOTAL APPROPRIATIONS BY SESSIONS OF CONGRESS—Continued

[NOTE.—As explained in par. 7, "Compilers' Notes", p. III, aggregate totals of appropriations in this volume, beginning with the one for the 90th Cong., 2d sess., include trust fund appropriations not previously emphasized in general tabulations and summaries. The trust fund amounts in this table for the fiscal years 1938–68, inclusive, are derived from footnotes carried to table X in the volume for the 90th Cong., 1st sess., and being estimates thereof as shown in the respective annual budgets, are to some extent approximate. Permanent trust fund amounts for the 100th Cong., 2d sess., are based on estimates in the January 1988 Budget, and are thus subject to revision when actual amounts become known. Permanent "Federal" fund amounts are also based on estimates thereof as shown in the respective annual budgets, and are thus also subject to revision when actual amounts become known.]

Congress and session	Federal funds	Trust funds	Total
93d Cong., 1st sess., fiscal year 1974 and prior fiscal years	[4] $182,480,509,654	$120,995,727,000	[2] [4] $303,476,236,654
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts	[4] *(174,902,319,304)*		[4] *(174,902,319,304)*
Appropriations in legislative acts	*(3,940,372,350)*	*(12,462,940,000)*	*(16,403,312,350)*
Permanent appropriations	*(40,895,808,000)*	*(108,532,787,000)*	*(149,428,595,000)*
Adjustments for interfund and intragovernmental transactions	*(−37,257,990,000)*		*(−37,257,990,000)*
93d Cong., 2d sess., fiscal year 1975 and prior fiscal years	[5] 268,304,872,427	121,736,261,000	[2] [5] 390,041,133,427
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts	*(204,012,311,514)*		*(204,012,311,514)*
Appropriations in legislative acts	*(62,568,804,913)*	*(152,500,000)*	*(62,721,304,913)*
Permanent appropriations	*(45,447,732,000)*	*(121,583,761,000)*	*(167,031,493,000)*
Adjustments for interfund and intragovernmental transactions	*(−43,723,976,000)*		*(−43,723,976,000)*
94th Cong., 1st sess.:			
Fiscal year 1976 and prior fiscal years	269,391,509,951	130,721,852,000	[2] [6] 400,113,361,951
Transition period	49,782,823,499	33,623,231,000	[7] 83,406,054,499
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(262,194,919,839)*		*(262,194,919,839)*
Transition period	*(47,575,114,499)*		*(47,575,114,499)*
Rescission acts	*(−287,291,174)*		*(−287,291,174)*
Appropriations in legislative acts	*(10,627,079,286)*	*(−390,000,000)*	*(10,237,079,286)*
Transition period (net)	[8] *(−8,570,000)*		[8] *(−8,570,000)*
Permanent appropriations	*(51,122,943,000)*	*(131,111,852,000)*	*(182,234,795,000)*
Transition period	*(12,946,828,000)*	*(33,623,231,000)*	*(46,570,059,000)*
Adjustments for interfund and intragovernmental transactions	*(−54,266,141,000)*		*(−54,266,141,000)*
Transition period	*(−10,730,549,000)*		*(−10,730,549,000)*
94th Cong., 2d sess.:			
Fiscal year 1977 and prior fiscal years	[9] 288,220,964,880	156,443,836,000	[2] [9] 444,664,800,880
Transition period	4,792,078,440	3,715,000,000	[10] 8,507,078,440
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(277,157,958,407)*	*(345,277,000)*	*(277,503,235,407)*
Transition period (net)	*(4,797,230,180)*	*(15,000,000)*	*(4,812,230,180)*
Rescission acts	*(−70,656,000)*		*(−70,656,000)*
Transition period	*(−5,175,000)*		*(−5,175,000)*
Appropriations in legislative acts	*(878,473)*	*(2,448,000,000)*	*(2,448,878,473)*
Transition period	*(23,260)*	*(3,700,000,000)*	*(3,700,023,260)*
Permanent appropriations	*(63,037,720,000)*	*(164,113,941,000)*	*(227,151,661,000)*
Adjustments for interfund and intragovernmental transactions	[11] *(−51,904,936,000)*	*(−10,463,382,000)*	*(−62,368,318,000)*
95th Cong., 1st sess.:			
Fiscal year 1978 and prior fiscal years	[12] 360,785,368,842	166,545,104,667	[2] [12] 527,330,473,509
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(353,317,494,116)*	*(696,536,667)*	[2] *(354,014,030,783)*
Rescission acts	*(−807,640,000)*		*(−807,640,000)*
Appropriations in legislative acts	*(1,001,726)*		*(1,001,726)*
Permanent appropriations	*(56,830,073,000)*	*(178,384,983,000)*	*(235,215,056,000)*
Adjustments for interfund and intragovernmental transactions	[13] *(−48,555,560,000)*	*(−12,536,415,000)*	*(−61,091,975,000)*

See footnotes on pp. 2406–2407.

X. TOTAL APPROPRIATIONS BY SESSIONS OF CONGRESS—Continued

[NOTE.—As explained in par. 7, "Compilers' Notes", p. III, aggregate totals of appropriations in this volume, beginning with the one for the 90th Cong., 2d sess., include trust fund appropriations not previously emphasized in general tabulations and summaries. The trust fund amounts in this table for the fiscal years 1938–68, inclusive, are derived from footnotes carried to table X in the volume for the 90th Cong., 1st sess., and being estimates thereof as shown in the respective annual budgets, are to some extent approximate. Permanent trust fund amounts for the 100th Cong., 2d sess., are based on estimates in the January 1988 Budget, and are thus subject to revision when actual amounts become known. Permanent "Federal" fund amounts are also based on estimates thereof as shown in the respective annual budgets, and are thus also subject to revision when actual amounts become known.]

Congress and session	Federal funds	Trust funds	Total
95th Cong., 2d sess.:			
Fiscal year 1979 and prior fiscal years	[14] $372,683,967,134	$206,694,297,000	[2] [14] $579,378,264,134
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(352,638,885,730)*	*(899,468,000)*	[2] *(353,538,353,730)*
Rescission acts	*(−55,255,000)*		*(−55,255,000)*
Appropriations in legislative acts	*(7,325,404)*	*(19,591,200,000)*	*(19,598,525,404)*
Permanent appropriations	*(70,749,391,000)*	*(199,126,247,000)*	*(269,875,638,000)*
Adjustments for interfund and intragovernmental transactions	[15] *(−50,656,380,000)*	*(−12,922,618,000)*	*(−63,578,998,000)*
96th Cong., 1st sess.:			
Fiscal year 1980 and prior fiscal years	[16] 408,773,914,474	214,416,798,000	[2] [16] 623,190,712,474
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(386,521,933,291)*	*(1,616,823,000)*	[2] *(388,138,756,291)*
Rescission acts	*(−723,609,000)*		*(−723,609,000)*
Appropriations in legislative acts	*(1,183)*		*(1,183)*
Permanent appropriations	*(81,676,152,000)*	*(227,319,768,000)*	*(308,995,920,000)*
Adjustments for interfund and intragovernmental transactions	[17] *(−58,700,563,000)*	*(−14,519,793,000)*	*(−73,220,356,000)*
96th Cong., 2d sess.:			
Fiscal year 1981 and prior fiscal years	453,756,787,346	243,035,266,000	[2] [18] 696,792,053,346
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(432,276,712,344)*	*(1,488,909,000)*	[2] *(433,765,621,344)*
Rescission acts			
Appropriations in legislative acts	*(843,002)*		*(843,002)*
Permanent appropriations	*(96,152,253,000)*	*(255,464,214,000)*	*(351,616,467,000)*
Adjustments for interfund and intragovernmental transactions	[19] *(−74,673,021,000)*	*(−13,917,857,000)*	*(−88,590,878,000)*
97th Cong., 1st sess.:			
Fiscal year 1982 and prior fiscal years	469,951,845,261	285,322,930,000	[2] [20] 755,274,775,261
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(434,404,409,261)*	*(2,432,533,000)*	[2] *(436,836,942,261)*
Rescission acts			
Appropriations in legislative acts			
Permanent appropriations	*(128,820,043,000)*	*(298,579,904,000)*	*(427,399,947,000)*
Adjustments for interfund and intragovernmental transactions	[21] *(−93,272,607,000)*	*(−15,689,507,000)*	*(−108,962,114,000)*
97th Cong., 2d sess.:			
Fiscal year 1983 and prior fiscal years	546,140,042,982	316,695,852,000	[2] [22] 862,835,894,982
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(504,216,739,060)*	*(2,984,843,000)*	*(507,201,582,060)*
Rescission acts			
Appropriations in legislative acts		*(14,849,000,000)*	*(14,849,000,000)*
Private appropriation acts	*(66,922)*		*(66,922)*
Permanent appropriations	*(155,879,910,000)*	*(319,907,084,000)*	*(475,786,994,000)*
Adjustments for interfund and intragovernmental transactions	[23] *(−113,956,673,000)*	*(−21,045,075,000)*	*(−135,001,748,000)*
98th Cong., 1st sess.:			
Fiscal year 1984 and prior fiscal years	599,648,521,722	346,979,065,000	[2] [24] 946,627,586,722
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(547,336,540,104)*	*(2,381,369,000)*	*(549,717,909,104)*
Rescission acts			
Appropriations in legislative acts	*(23,000,000)*	*(25,319,000,000)*	*(25,342,000,000)*
Private appropriation acts	*(31,618)*		*(31,618)*
Permanent appropriations	*(173,040,153,000)*	*(346,149,478,000)*	*(519,189,631,000)*
Adjustments for interfund and intragovernmental transactions	[25] *(−120,751,203,000)*	*(−26,870,782,000)*	*(−147,621,985,000)*

See footnotes on pp. 2406–2407.

X. TOTAL APPROPRIATIONS BY SESSIONS OF CONGRESS—Continued

[NOTE.—As explained in par. 7, "Compilers' Notes", p. III, aggregate totals of appropriations in this volume, beginning with the one for the 90th Cong., 2d sess., include trust fund appropriations not previously emphasized in general tabulations and summaries. The trust fund amounts in this table for the fiscal years 1938–68, inclusive, are derived from footnotes carried to table X in the volume for the 90th Cong., 1st sess., and being estimates thereof as shown in the respective annual budgets, are to some extent approximate. Permanent trust fund amounts for the 100th Cong., 2d sess., are based on estimates in the January 1988 Budget, and are thus subject to revision when actual amounts become known. Permanent "Federal" fund amounts are also based on estimates thereof as shown in the respective annual budgets, and are thus also subject to revision when actual amounts become known.]

Congress and session	Federal funds	Trust funds	Total
98th Cong., 2d sess.:			
Fiscal year 1985 and prior fiscal years	$602,424,350,066	$394,603,459,000	[2] [24] $997,027,809,066
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(556,131,053,986)*	*(4,496,471,000)*	*(560,627,524,986)*
Rescission acts			
Appropriations in legislative acts	*(75,000,000)*	*(135,000,000)*	*(210,000,000)*
Private appropriation acts	*(169,080)*		*(169,080)*
Permanent appropriations	*(202,168,366,000)*	*(417,186,025,000)*	*(619,354,391,000)*
Adjustments for interfund and intragovernmental transactions	[27] *(−155,950,239,000)*	*(−27,214,037,000)*	*(−183,164,276,000)*
99th Cong., 1st sess.:			
Fiscal year 1986 and prior fiscal years	661,596,011,087	424,527,581,000	[2] [25] 1,086,123,592,087
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(571,572,788,087)*	*(6,166,014,000)*	*(578,038,802,087)*
Rescission acts			
Appropriations in legislative acts	*(2,258,000,000)*	*(−182,000,000)*	*(2,076,000,000)*
Private appropriation acts			
Permanent appropriations	*(256,164,982,000)*	*(442,455,833,000)*	*(698,620,815,000)*
Adjustments for interfund and intragovernmental transactions	[29] *(−168,699,759,000)*	*(−23,912,266,000)*	*(−192,612,025,000)*
99th Cong., 2d sess.:			
Fiscal year 1987 and prior fiscal years	678,392,900,019	419,644,363,000	[2] [30] 1,098,037,263,019
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(569,172,325,494)*	*(3,325,907,000)*	*(572,498,232,494)*
Rescission acts			
Appropriations in legislative acts	*(1,642,000,000)*	*(1,654,000,000)*	*(3,296,000,000)*
Private appropriation acts	*(88,525)*		*(88,525)*
Permanent appropriations	*(264,669,029,000)*	*(452,264,988,000)*	*(716,934,017,000)*
Adjustments for interfund and intragovernmental transactions	[31] *(−157,090,543,000)*	*(−37,600,532,000)*	*(−194,691,075,000)*
100th Cong., 1st sess.:			
Fiscal year 1988 and prior fiscal years	690,862,755,817	480,767,871,333	[2] [32] 1,171,630,627,150
Consisting of:			
Regular annual, supplemental, and continuing appropriation acts (net)	*(607,135,479,817)*	*(4,109,424,333)*	*(611,244,904,150)*
Rescission acts			
Appropriations in legislative acts	*(−2,107,000,000)*	*(14,482,000,000)*	*(12,375,000,000)*
Private appropriation acts			
Permanent appropriations	*(253,107,398,000)*	*(504,241,158,000)*	*(757,348,556,000)*
Adjustments for interfund and intragovernmental transactions	[33] *(−167,273,122,000)*	*(−42,064,711,000)*	*(−209,337,833,000)*
100th Cong., 2d sess.:			
Fiscal year 1989 and prior fiscal years	712,724,459,189	525,848,527,000	[2] [34] 1,238,572,986,189
Consisting of:			
Regular annual and supplemental appropriation acts (net)	*(616,169,695,769)*	*(5,358,522,000)*	*(621,528,217,769)*
Rescission act	*(-8,000,000)*		*(-8,000,000)*
Appropriations in legislative acts	*(492,000,000)*	*(1,488,000,000)*	*(1,980,000,000)*
Private appropriation acts	*(1,000,420)*		*(1,000,420)*
Permanent appropriations	*(290,810,235,000)*	*(542,240,583,000)*	*(833,050,818,000)*
Adjustments for interfund and intragovernmental transactions	[35] *(−194,740,472,000)*	*(−23,238,578,000)*	*(−217,979,050,000)*

See footnotes on pp. 2406–2407.

X. TOTAL APPROPRIATIONS BY SESSIONS OF CONGRESS—Continued

[1] Does not include appropriations from the receipts created by the increment resulting from the reduction in weight of the gold dollar under sec. 7 of the Gold Reserve Act of 1934 amounting to $2,000,000,000 for the Exchange Stabilization Fund and $135,299,557 for payment to the surplus of Federal Reserve banks. These appropriations did not affect the budget or the national debt and for that reason are not included.

[2] Total funds for the following years are qualified as indicated:

Congress and session	Funds for refunding internal revenue collections excluded	Funds for cumulative sinking fund for public debt retirement excluded	Includes funds for 1 year in advance of budget year
85th Cong., 2d sess., fiscal year 1959 and prior fiscal years	$4,708,950,000	$633,349,085	.....
86th Cong., 1st sess., fiscal year 1960 and prior fiscal years	5,402,200,000	633,349,085	.....
86th Cong., 2d sess., fiscal year 1961 and prior fiscal years	6,053,675,000	633,349,085	.....
87th Cong., 1st sess., fiscal year 1962 and prior fiscal years	5,986,825,000	680,849,085	.....
87th Cong., 2d sess., fiscal year 1963 and prior fiscal years	6,554,000,000	680,849,085	.....
88th Cong., 1st sess., fiscal year 1964 and prior fiscal years	6,235,134,000	680,849,085	.....
88th Cong., 2d sess., fiscal year 1965 and prior fiscal years	5,035,100,000	680,849,085	.....
89th Cong., 1st sess., fiscal year 1966 and prior fiscal years	6,243,000,000	680,849,085	$926,000,000
89th Cong., 2d sess., fiscal year 1967 and prior fiscal years	7,573,000,000	680,849,085	875,000,000
90th Cong., 1st sess., fiscal year 1968 and prior fiscal years	10,700,000,000	680,849,085	995,000,000
90th Cong., 2d sess., fiscal year 1969 and prior fiscal years	11,161,000,000	680,849,085	1,965,814,000
91st Cong., 1st sess., fiscal year 1970 and prior fiscal years	12,822,500,000	680,849,085	214,000,000
91st Cong., 2d sess., fiscal year 1971 and prior fiscal years	16,075,187,000	680,849,085	150,000,000
92d Cong., 1st sess., fiscal year 1972 and prior fiscal years	18,890,425,332	680,849,085	174,321,000
92d Cong., 2d sess., fiscal year 1973 and prior fiscal years	18,787,584,008	680,849,085	131,181,000
93d Cong., 1st sess., fiscal year 1974 and prior fiscal years	25,628,844,731	680,849,085	90,360,000
93d Cong., 2d sess., fiscal year 1975 and prior fiscal years	27,970,932,506	680,849,085	2,428,597,000
94th Cong., 1st sess., fiscal year 1976 and prior fiscal years	39,906,309,490	680,849,085	2,653,410,852
Transition period (July 1, 1977–Sept. 30, 1976)	2,388,185,173	.....	.....
94th Cong., 2d sess., fiscal year 1977 and prior fiscal years	33,566,777,877	680,849,085	[36] 813,249,779
95th Cong., 1st sess., fiscal year 1978 and prior fiscal years	36,178,035,326	680,849,085	[37] 152,000,000
95th Cong., 2d sess., fiscal year 1979 and prior fiscal years	39,324,935,206	680,849,085	[38] 15,125,500,000
96th Cong., 1st sess., fiscal year 1980 and prior fiscal years	41,350,321,605	680,849,085	[39] 334,000,000
96th Cong., 2d sess., fiscal year 1981 and prior fiscal years	53,504,051,402	680,849,085	[40] 338,000,000
97th Cong., 1st sess., fiscal year 1982 and prior fiscal years	62,249,552,530	680,849,085	[41] 1,892,941,000
97th Cong., 2d sess., fiscal year 1983 and prior fiscal years	73,405,943,810	680,849,085	[42] 7,106,000,000
98th Cong., 1st sess., fiscal year 1984 and prior fiscal years	87,800,770,203	680,849,085	[43] 7,902,000,000
98th Cong., 2d sess., fiscal year 1985 and prior fiscal years	84,561,228,427	680,849,085	[44] 11,085,169,000
99th Cong., 1st sess., fiscal year 1986 and prior fiscal years	84,560,151,594	680,849,085	[45] 11,707,754,000
99th Cong., 2d sess., fiscal year 1987 and prior fiscal years	92,600,828,378	680,849,085	[46] 13,304,265,000
100th Cong., 1st sess., fiscal year 1988 and prior fiscal years	94,992,287,726	680,849,085	[47] 14,527,648,000
100th Cong., 2d sess., fiscal year 1989 and prior fiscal years	92,760,562,125	680,849,085	[48] 16,147,425,000

[3] Includes appropriations totaling $33,499,495,500 in continuing resolution (P.L. 92-571) for Foreign Assistance and related programs ($3,652,701,000), and the Departments of Labor, Health, Education, and Welfare and related agencies ($29,846,794,500), and reflects increase of $46,794,500 in the amount for Labor-HEW carried in the 1972–73 volume due to later estimates.

[4] Reflects rescissions totaling $212,412,000 of fiscal year 1973 appropriations. Does not reflect action by the Congress in declining to approve proposed rescissions of fiscal year 1973 appropriations totaling $382,999,000.

[5] Reflects rescissions totaling $1,404,572,000 consisting of $1,319,481,000 in regular appropriation and rescission acts and $85,091,000 in legislative acts (see table VIIIj on p. 2427, 1974–75 volume, for detail).

[6] Reflects rescissions totaling $702,291,174 consisting of $25,000,000 (Federal funds) in a regular annual appropriation act, $287,291,174 (Federal funds) in rescission acts, and $390,000,000 (trust funds) in a legislative act (see table VIIIj on pp. 1259–1260, 1975–76 volume, for detail).

[7] Reflects rescissions of $14,400,000 in legislative acts (see table VIIIj on pp. 1259–1260, 1975–76 volume, for detail).

[8] Consists of new budget (obligational) authority of $5,830,000 and rescissions of $14,400,000 (see table VIIIa on pp. 1230–1231, 1975–76 volume, for detail).

[9] Reflects rescissions totaling $243,378,943 consisting of $172,722,943 in a regular annual appropriation act and $70,656,000 in rescission acts (see table VIIIh, 1976–77 volume, for detail).

[10] Reflects rescissions of $5,175,000 (see table VIIIh, 1976–77 volume, for detail).

[11] Consists of $14,728,128,000 in Federal funds and $37,176,808,000 in interfund transactions.

[12] Reflects rescissions totaling $833,854,000 consisting of $26,214,000 in regular annual appropriation acts and $807,640,000 in rescission acts (see table VIIIi, 1977–78 volume, for detail. Also reflects rescission of $47,500,000 in permanent contract authority for the "Helium fund," Bureau of Mines, Department of the Interior. Permanent contract authority amount shown in estimate column and rescinded in the Department of the Interior Appropriation Act, 1978 (Public Law 95–74).

[13] Consists of $12,130,868,000 in Federal funds and $36,424,692,000 in interfund transactions.

[14] Includes $15,427,919,000, excluded from the 1978–79 volume, for programs for the Departments of Labor, and Health, Education, and Welfare and Related Agencies funded at the "current rate" under section 101(a) of the continuing resolution (Public Law 95–482) (see p. 319, 1978–79 volume). Budget estimates for these activities total $17,646,443,000 and reflect an increase of $198,300,000 above the $17,448,143,000 referred to in footnote 14 of the 1978–79 volume (for details, see table VIII on pp. 1221–1222, 1979–80 volume). Reflects rescissions totaling $518,655,000 consisting of $463,400,000 in the Supplemental Appropriations Act, 1978 (Public Law 95–240) and $55,255,000 in rescission acts (see table VIIIk, 1978–79 volume, for details). Also reflects rescission of $47,500,000 in permanent contract authority for the "Helium fund," Bureau of Mines, Department of the Interior. Permanent contract authority amount shown in estimate column and rescinded in the Department of the Interior Appropriation Act, 1979 (Public Law 95–465).

[15] Consists of $13,158,914,000 in Federal funds and $37,497,466,000 in interfund transactions.

[16] Includes $1,146,946,000 excluded from the 1979–80 volume for programs for the Department of Health, Education and Welfare and related agencies funded at the "current rate" under section 101(c) of the further continuing resolution (Public Law 96–123, see p. 288, 1979–80 volume). Budget estimates for these programs total $662,319,000 and reflect an increase of $14,425,000 above the $647,894,000 referred to in footnote 16 of the 1979–80 volume (for details, see table VIII on p. 1959, 1980–81 volume). Reflects rescissions totaling $1,636,709,000 consisting of $913,100,000 in regular annual appropriation acts and $723,609,000 in the budget rescission act (see table VIIIh 1979–80 volume). Also reflects rescission of $47,500,000 in permanent contract authority for the "Helium fund," Bureau of Mines, Department of the Interior. The amount for permanent contract authority is shown in the estimate column and rescinded in the Department of the Interior Appropriation Act, 1980 (Public Law 96–126).

X. TOTAL APPROPRIATIONS BY SESSIONS OF CONGRESS—Continued

[17] Consists of $16,335,625,000 in Federal funds and $42,364,938,000 in interfund transactions.

[18] Reflects rescissions totaling $4,518,572,146 consisting of $1,335,000,000 in regular annual appropriation acts and $3,183,572,146 in supplemental acts. Excludes $6,954,927,000 appropriated in fiscal year 1981 to liquidate "indefinite" budget authority provided in fiscal year 1980 for certain programs in the Department of Health and Human Services (there were no amounts included in any of the fiscal year 1980 tabulations (1979–80 volume) for these indefinite amounts). Includes authority to obligate $6,914,793,000 in "indefinite" budget authority during fiscal year 1981 which will be adjusted and liquidated in fiscal year 1982 when final amounts become known (see table VIII on pp. 2039–2040, 1980–81 volume, for accounts involved).

[19] Consists of $26,402,993,000 in Federal funds and $48,270,028,000 in interfund transactions.

[20] Reflects rescissions totaling $16,064,086,447 consisting of $1,805,207,800 in regular annual appropriation acts including continuing resolutions and $14,258,878,647 in supplemental acts. Excludes $6,379,418,000 appropriated in fiscal year 1982 to liquidate "indefinite" budget authority provided in fiscal year 1981 for certain programs in the Department of Health and Human Services (estimate of $6,914,793,000 for fiscal year 1981 carried in 1980–81 volume). Includes authority to obligate $4,615,600,000 in "indefinite" budget authority during fiscal year 1982 which will be adjusted and liquidated in fiscal year 1983 when final amounts become known (see table VIII on pp. 1390–1391, 1981–82 volume, for accounts involved).

[21] Consists of $34,835,543,000 in Federal funds and $58,437,064,000 in interfund transactions.

[22] Reflects rescissions totaling $8,967,781,500 consisting of $2,888,815,500 in regular annual appropriation acts including continuing resolutions and $6,078,966,000 in supplemental acts. Excludes $5,492,377,000 appropriated in fiscal year 1983 to liquidate "indefinite" budget authority provided in fiscal year 1982 for certain programs in the Department of Health and Human Services (estimate of $4,615,600,000 for fiscal year 1982 carried in 1981–82 volume). See table VIII footnote 22, on p. 1535, 1982–83 volume, for accounts involved.

[23] Consists of $49,761,582,000 in Federal funds and $64,195,091,000 in interfund transactions.

[24] Reflects rescissions totaling $4,616,128,000 consisting of $2,956,897,000 in regular annual appropriation acts and $1,659,231,000 in supplemental acts. Excludes $323,000,000 appropriated in fiscal year 1984 to liquidate "indefinite" budget authority provided in fiscal year 1983 for certain programs in the Department of Health and Human Services. See table VIII, footnote 7, on p. 1129, 1983–84 volume, for accounts involved.

[25] Consists of $45,497,986,000 in Federal funds and $7[illegible],253,217,000 in interfund transactions.

[26] Reflects rescissions totaling $10,539,178,000 consisting of $10,129,461,000 in regular annual appropriation acts and $409,717,000 in supplemental acts. Excludes $429,786,000 appropriated in fiscal year 1985 to liquidate "indefinite" budget authority provided in fiscal year 1984 for certain programs in the Department of Health and Human Services. See table VIII, footnote 5, on p. 1905, 1984–85 volume, for accounts involved.

[27] Consists of $43,371,844,000 in Federal funds and $112,578,395,000 in interfund transactions.

[28] Reflects rescissions totaling $8,555,556,000 consisting of $7,815,000,000 in regular annual appropriation acts including continuing resolutions and $740,956,000 in supplemental acts. Excludes $1,329,834,000 appropriated in fiscal year 1986 to liquidate "indefinite" budget authority provided in fiscal year 1985 for certain programs in the Department of Health and Human Services. See table VIII, footnote 5, on p. 1756, 1985–86 volume, for accounts involved.

[29] Consists of $47,593,037,000 in Federal funds and $121,106,722,000 in interfund transactions.

[30] Reflects rescissions totaling $19,277,677,000 consisting of $6,281,753,000 in regular annual appropriation acts including continuing resolutions and $12,995,924,000 in supplemental acts.

[31] Consists of $43,206,536,000 in Federal funds and $113,884,007,000 in interfund transactions.

[32] Reflects rescissions totaling $4,673,059,067 consisting of $4,072,371,067 in regular annual appropriation acts including continuing resolutions and $600,688,000 in supplemental acts.

[33] Consists of $40,169,599,000 in Federal funds and $127,103,523,000 in interfund transactions.

[34] Reflects rescissions totaling $591,048,000 consisting of $571,048,000 in regular annual appropriation acts, $12,000,000 in supplemental acts, and $8,000,000 in rescission act.

[35] Consists of $38,630,375,000 in Federal funds and $156,110,097,000 in interfund transactions.

[36] Includes $557,049,779 for fiscal year 1978 and $256,200,000 for fiscal year 1979 (2 years in advance of budget year).

[37] This amount is for fiscal year 1980 (2 years in advance of budget year).

[38] Includes $5,136,500,000 for fiscal year 1980; $5,615,000,000 for fiscal year 1981; and $4,374,000,000 for fiscal year 1982.

[39] Includes $162,000,000 for fiscal year 1981 and $172,000,000 for fiscal year 1982 (2 years in advance of budget year).

[40] Includes $166,000,000 for fiscal year 1982 and $172,000,000 for fiscal year 1983 (2 years in advance of budget year).

[41] Includes $1,752,341,000 for fiscal year 1983 and $105,600,000 for fiscal year 1984 (2 years in advance of budget year).

[42] Includes $6,976,000,000 for fiscal year 1984 and $130,000,000 for fiscal year 1985 (2 years in advance of budget year).

[43] Includes $7,772,000,000 for fiscal year 1985 and $130,000,000 for fiscal year 1986 (2 years in advance of budget year).

[44] Includes $10,885,169,000 for fiscal year 1986 and $200,000,000 for fiscal year 1987 (2 years in advance of budget year).

[45] Includes $11,493,754,000 for fiscal year 1987 and $214,000,000 for fiscal year 1988 (2 years in advance of budget year).

[46] Includes $12,852,265,000 for fiscal year 1988 and $452,000,000 for fiscal year 1989 (2 years in advance of budget year).

[47] Includes $14,295,000,000 for fiscal year 1989 and $232,648,000 for fiscal year 1990 (2 years in advance of budget year).

[48] Includes $15,648,555,000 for fiscal year 1990 and $498,870,000 for fiscal year 1991 (2 years in advance of budget year).

Page

Agriculture, Department of—Continued
Animal and Plant Health Inspection Service:
Buildings and facilities ... 365
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Permanent appropriations—Trust funds ... 2240
Salaries and expenses ... 364
Buildings operations and maintenance ... 358
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Commodity Credit Corporation:
Export credit:
Intermediate ... 369
Short-term ... 369
General sales manager ... 369
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2332
Permanent appropriations—Federal funds ... 2222
Reimbursement of net realized losses ... 369
Comparison of appropriations by departments and establishments ... 2259
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2381
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2357
Cooperative State Research Service ... 362
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Departmental administration (including transfers of funds) ... 358
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Deputy Secretary, Office of the ... 357
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Economic Research Service ... 360
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Permanent appropriations—Trust funds ... 2240
Economics, Office of the Assistant Secretary for ... 360
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Extension Service ... 363
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Farmers Home Administration:
Administrator, Office of the ... 373
Agricultural credit insurance fund ... 371
Construction defects, compensation for ... 372
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2332
Lincoln, city of ... 371
Mutual and self-help housing ... 372
Permanent appropriations—Federal funds ... 2222
Rural community fire protection grants ... 372
Rural development grants ... 373
Rural development insurance fund ... 371
Rural development loan fund ... 372
Rural housing for domestic farm labor ... 372
Rural housing insurance fund ... 370
Rural housing preservation grants ... 372
Rural water and waste disposal grants ... 372
Salaries and expenses ... 373
Self-help housing land development fund ... 371
Very low-income housing repair grants ... 372
Federal Crop Insurance Corporation:
Administrative and operating expenses ... 369
Fund ... 369
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2332

Page

Agriculture, Department of—Continued
Federal Grain Inspection Service:
Inspection and weighing services: Limitation on inspection and weighing service expenses ... 366
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Salaries and expenses ... 365
Food and Consumer Services, Office of the Assistant Secretary for ... 380
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2335
Food and Nutrition Service:
Child nutrition programs ... 380
Commodity supplemental food program ... 381
Food donations programs for selected groups ... 382
Food program administration ... 382
Food stamp program ... 381
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2335
Permanent appropriations: Federal funds ... 2223
Special milk program ... 381
Temporary emergency food assistance program ... 382
Women, infants, and children [WIC]: Special supplemental food program for ... 381, 470
Food Safety and Inspection Service ... 365
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Permanent appropriations—Trust funds ... 2241
Foreign Agricultural Service ... 383
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2335
Forest Service:
Administrative provisions ... 264
Comparison of appropriations by departments and establishments ... 2259
Comparison of budget estimates and appropriations to liquidate contract authorizations ... 2279
Construction ... 261
Forest research ... 260
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2314
Land acquisition ... 261
Land exchanges, acquisition of lands to complete ... 263
Lands for national forests, acquisition of: Special acts ... 263
Miscellaneous trust funds ... 264
National Forest System ... 260
Permanent appropriations:
Federal funds ... 2223
Trust funds ... 2241
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Range betterment fund ... 263
State and private forestry ... 260
Timber roads, purchaser election, Forest Service ... 263
Tongas timber supply fund ... 263
General Counsel, Office of the ... 360
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Governmental and Public Affairs, Office of: Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Governmental and Public Affairs, Office of the Assistant Secretary for ... 359
Congressional relations ... 359
Intergovernmental affairs ... 359
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Public affairs ... 359
Hazardous waste management ... 358
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Human Nutrition Information Service ... 382
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2335
Inspector General, Office of the ... 359

Page

Agriculture, Department of—Continued
Inspector General, Office of the—Continued
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
International Affairs and Commodity Programs, Office of the Under Secretary for ... 367
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2332
International Cooperation and Development, Office of ... 383
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2336
Permanent appropriations—Trust funds ... 2240
Scientific activities overseas (foreign currency program) ... 384
Marketing and Inspection Services, Office of the Assistant Secretary for ... 364
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
National Agricultural Library ... 364
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
National Agricultural Statistics Service ... 360
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Permanent appropriations—Trust funds ... 2240
Natural Resources and Environment, Office of the Assistant to the Secretary for ... 375
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2334
Packers and Stockyards Administration ... 367
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2332
Public Law 480 (including transfers of funds) ... 383
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2336
Rental payments (including transfers of funds) ... 358
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Rescissions of appropriations considered during the 2d session of the 100th Congress, arranged by departments and establishments ... 2377
Rural Electrification Administration ... 374
Administrator, Office of the ... 375
Permanent appropriations—Federal funds ... 2222
Rural communication development fund ... 375
Rural economic development subaccount ... 375
Rural electrification and telephone revolving fund:
Loan authorizations ... 374
Reimbursement to the ... 374
Rural telephone bank ... 374
Salaries and expenses ... 375
Science and Education, Office of the Assistant Secretary for ... 361
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Secretary, Office of the ... 357
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Permanent appropriations—Trust funds ... 2240
Small Community and Rural Development, Office of the Under Secretary for ... 370
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2332
Soil Conservation Service:
Conservation operations ... 376
Great Plains conservation program ... 377
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2289, 2334
Permanent appropriations—Trust funds ... 2240
Resource conservation and development ... 377
River basin surveys and investigations ... 376
Watershed and flood prevention operations ... 12, 377
Watershed planning ... 376
Special Services, Office of the Assistant to the Secretary for ... 357

Page

Agriculture, Department of—Continued
Special Services, Office of the Assistant to the Secretary for—Continued
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Transportation, Office of ... 367
Working capital fund ... 359
World Agricultural Outlook Board ... 360
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
American Battle Monuments Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2310
Permanent appropriations—Trust funds ... 2249
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Salaries and expenses ... 214
American Indian and Alaska Native Culture and Arts Development, Institute of:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2315
Permanent appropriations—Trust funds ... 2250
Salaries and expenses ... 273
Appalachian Regional Commission ... 149
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2303
Permanent appropriations—Trust funds ... 2249
Appropriations bills for fiscal year 1989, hand enrollment of ... 473
Chronological history of regular annual and supplemental appropriation bills ... 2272
Appropriations made during the second session of the One Hundredth Congress in regular annual, supplemental, continuing, and miscellaneous appropriation acts; rescission acts; deferral resolutions and major acts authorizing appropriations ... 1
Architectural and Transportation Barriers Compliance Board:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2340
Salaries and expenses ... 413
Arms Control and Disarmament Agency:
Arms control and disarmament activities ... 43
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2294
Art, National Gallery of:
Buildings, repair, restoration, and renovation of ... 275
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2316
Salaries and expenses ... 275
Arts and the Humanities, National Foundation on the:
Administrative provisions ... 277
Arts, National Endowment for the:
Grants and administration ... 276
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2316
Matching grants ... 276
Humanities, National Endowment for the:
Grants and administration ... 276
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2316
Matching grants ... 276
Museum Services, Institute of:
Grants and administration ... 277
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2316
Permanent appropriations—Trust funds ... 2250
Authorizations for appropriations, public debt transactions, and contract authorizations approved during the 2d session of the 100th Congress ... 2281

B

Barry Goldwater Scholarship and Excellence in Education Foundation: Permanent appropriations—Trust fund ... 2250
Bilateral economic assistance:
Agency for International Development:
Agriculture, rural development, and nutrition, development assistance ... 159
American schools and hospitals abroad ... 164
Child survival fund ... 160

Page

Bilateral economic assistance—Continued
Agency for International Development—Continued
Development assistance:
Displaced children, assistance for ... 163
Education and human resources development ... 160
Health ... 159
Jamaica, assistance for ... 162
Philippines ... 163
Population ... 159
Private and voluntary organizations ... 163
Private sector, environment, and energy ... 160
Private sector revolving fund ... 164
Science and technology ... 160
Southern Africa ... 162
Sub-Saharan Africa ... 161
War, assistance for victims of ... 162
Women in development ... 163
Economic support fund ... 165
Foreign service retirement and disability fund, payment to the ... 164
Housing and other credit guaranty programs ... 165
International AIDS prevention and control program ... 159
International disaster assistance ... 164
Micro-enterprise development ... 160
Operating expenses of the ... 164
Inspector General, Office of ... 164
Chronological history of regular annual and supplemental appropriation bills ... 2268
Funds appropriated to the President ... 159
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2306
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2350
Blind and Other Severely Handicapped, Committee for Purchase From the:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2343
Salaries and expenses ... 437
Board for International Broadcasting:
Grants and expenses ... 13, 43
Israel radio relay station ... 43
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2295
Budget Rescission Act, 1988 ... 475
Chronological history of regular annual and supplemental appropriation bills ... 2272
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2348
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2257
Recapitulation of itemized estimates and new budget (obligational) authority ... 2352
Building Sciences, National Institute of: Permanent appropriations—Trust funds ... 2251

C

Central Intelligence Agency:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2298
Retirement and disability system fund ... 74
Central America, assistance to transfer of funds, 1988 ... 1
Chronological history of regular annual and supplemental appropriation bills ... 2272
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2287
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2257
Recapitulation of itemized estimates and new budget (obligational) authority ... 2351
Children, National Commission on ... 314
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322
Christopher Columbus Quincentenary Jubilee Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2295
Salaries and expenses ... 43
Chronological history of regular annual and supplemental appropriation bills ... 2268
Civil Rights, Commission on:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2295
Salaries and expenses ... 44

INDEX

A

Page

ACTION:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2322, 2346
Operating expenses 313, 470
Administrative Conference of the United States:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 243, 2343
Salaries and expenses 437
African Development Foundation 167
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2306
Agricultural Workers, Commission on:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2295
Salaries and expenses 44
Agriculture, Department of:
Administration, Office of the Assistant Secretary for 358
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2331
Administrative provision 12
Advisory committees 358
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2331
Agricultural Cooperative Service 366
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2331
Agricultural Marketing Service:
Administrative expenses, limitation on 366
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2331
Marketing services 366
Markets, income, and supply, funds for strengthening:
Section 32 366
States and possessions, payments to 367
Permanent appropriations:
Federal funds 2223
Trust funds 2241
Agricultural Research Service 361
Buildings and facilities 362
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2331
Permanent appropriations—Trust funds 2240
Agricultural Stabilization and Conservation Service:
Agricultural conservation program 378
Colorado River basin salinity control program 379
Conservation reserve program 379
Dairy indemnity program 368
Emergency conservation program 379
Forestry incentives program 379
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2289, 2332, 2335
Salaries and expenses 12, 367
Water bank program 379
Agricultural trade missions 383
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2336

Page

Commerce, Department of:
Census, Bureau of the:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2291
Periodic censuses and programs 13, 17
Salaries and expenses 17
Chronological history of regular annual and supplemental appropriation bills 2268
Comparison of appropriations by departments and establishments 2259
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments 2381
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments 2357
Economic and statistical analysis:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2291
Permanent appropriations—Trust funds 2241
Salaries and expenses 17
Economic Development Administration:
Economic development assistance programs 18
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2291
Salaries and expenses 19
Export Administration:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2291
Operations and administration 20
General administration:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2291
Permanent appropriations—Trust funds 2241
Salaries and expenses 17
General provisions 23
International Trade Administration:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2291
Operations and maintenance 19
Minority Business Development Agency:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2291
Minority business development 20
National Oceanic and Atmospheric Administration:
Fisheries promotional fund 21
Fishermen's contingency fund 21
Foreign fishing observer fund 21
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2291
Operations, research, and facilities 21
Permanent appropriations—Federal funds 2224
National Telecommunications and Information Administration:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2292
Public telecommunications facilities, planning and construction 22
Salaries and expenses 22
Patent and Trademark Office:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2291
Salaries and expenses 22
Recapitulation of appropriations by acts, irrespective of fiscal years 2255
Recapitulation of itemized estimates and new budget (obligational) authority 2349
Standards and Technology, National Institute of:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2291
Scientific and technical research and services 22
U.S. Travel and Tourism Administration:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2291
Salaries and expenses 20
Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 17

Page

Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989—Continued
Acts relating to:
Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, to authorize appropriations to carry out ... 648
Business Opportunity Development Reform Act of 1988 ... 666
Federal Communications Commission Authorization Act of 1988 ... 651
Marine Mammal Protection Act Amendments of 1988 ... 706
Marine Protection, Research, and Sanctuaries Act of 1972, to authorize appropriations to carry out title I during fiscal years 1989, 1990, and 1991 ... 645
Marine Protection, Research, and Sanctuaries Act of 1972, to authorize appropriations to carry out titles II and III to establish the National Oceans Policy Commission ... 655
National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 ... 629
National Ocean Pollution Planning Act of 1978 for fiscal years 1989 and 1990, to reauthorize the ... 665
National Telecommunications and Information Administration, to provide authorization of appropriations for activities of the ... 646
Omnibus Trade and Competitiveness Act of 1988 ... 618
South Pacific Tuna Act of 1988 ... 609
Women's Business Ownership Act of 1988 ... 637
Authorizations for appropriations, public debt transactions, and contract authorizations approved during the 2d session of the 100th Congress ... 2281
Chronological history of regular annual and supplemental appropriation bills ... 2268
General provisions ... 51
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2291
Recapitulation of itemized estimates and new budget (obligational) authority ... 2349
Commodity Futures Trading Commission ... 385
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2336
Comparison of appropriations by departments and establishments ... 2259
Comparison of budget estimates and appropriations by sessions of Congress ... 2391
Comparison of budget estimates and contract authorizations carried in appropriation acts ... 2277
Comparison of budget estimates and loan and borrowing authorizations carried in appropriation acts ... 2275
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2381
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1988, arranged by agencies ... 2365
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2357
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1990, arranged by agencies ... 2367
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1991, arranged by agencies ... 2369
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1992, arranged by agencies ... 2371
Comprehensive Health Care, United States Bipartisan Commission on ... 316
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2323
Constitution, Commission on the Bicentennial of the United States:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2295
Permanent appropriations—Trust funds ... 2250
Salaries and expenses ... 44
Consumer Affairs, Office of: Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Consumer Information Center: Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Consumer Product Safety Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2310
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Salaries and expenses ... 214

D

Defense Appropriations Act, 1989 ... 59
Acts relating to:
Defense Authorization Amendments and Base Closure and Realignment Act ... 925
Intelligence Authorization Act, Fiscal Year 1989 ... 737
National Defense Authorization Act, Fiscal Year 1989 ... 745

Page

Defense Appropriations Act, 1989—Continued
Acts relating to—Continued
To amend title 10, United States Code, to codify in that title certain defense-related permanent free-standing provisions of law ... 723
Authorizations ... 113
Authorizations for appropriations, public debt transactions, and contract authorizations approved during the 2d session of the 100th Congress ... 2281
Chronological history of regular annual and supplemental appropriation bills ... 2268
General provisions ... 75
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2297
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2349
Defense, Department of:
Air Force, Department of the:
Military personnel ... 60
National Guard personnel ... 61
Operation and maintenance ... 63
Permanent appropriations—Trust funds ... 2242
Procurement:
Aircraft procurement ... 69
Missile procurement ... 69
Other procurement ... 69
Research, development, test and evaluation ... 71
Reserve personnel ... 61
Air Force Reserve: Operation and maintenance ... 64
Air National Guard: Operation and maintenance ... 64
Army, Department of the:
Cemeterial expenses: Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Military personnel ... 59
National Board for the Promotion of Rifle Practice ... 64
National Guard personnel ... 61
Operation and maintenance ... 61
Permanent appropriations—Trust funds ... 2241
Procurement:
Aircraft procurement ... 65
Ammunition, procurement of ... 66
Missile procurement ... 66
Other procurement ... 67
Procurement of weapons and tracked combat vehicles ... 66
Research, development, test, and evaluation ... 70
Reserve personnel ... 60
Army National Guard: Operation and maintenance ... 64
Army Reserve: Operation and maintenance ... 63
Chemical agents and munitions destruction, defense ... 73
Chronological history of regular annual and supplemental appropriation bills ... 2268
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2298
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2349
Civil:
Army, Department of the:
Cemeterial expenses:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2310
Salaries and expenses ... 214
Corps of Engineers—Civil ... 11, 135
Administrative provisions ... 138
Construction, general ... 136
Flood control and coastal emergencies ... 138
Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee ... 137
General expenses ... 138
General regulatory functions ... 138
General investigations ... 135
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2302

Page

Defense, Department of—Continued
Civil—Continued
Army, Department of the—Continued
Corps of Engineers—Civil—Continued
Operation and maintenance, general ... 137
Permanent appropriations:
Federal funds ... 2224
Trust funds ... 2242
Chronological history of regular annual and supplemental appropriation bills ... 2268
Comparison of appropriations by departments and establishments ... 2259
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2381
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2358
Education benefits: Permanent appropriations—Trust funds ... 2242
Forest and wildlife conservation, military reservations: Permanent appropriations—Federal funds ... 2225
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2302, 2310
Military retirement:
Permanent appropriations:
Federal funds ... 2224
Trust funds ... 2242
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2350
Defense:
Developmental test and evaluation ... 73
Drug interdiction ... 74
Special operations forces fund ... 74
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2298
Operational test and evaluation ... 73
Defense agencies:
Operation and maintenance ... 63
Procurement ... 70
Research, development, test, and evaluation ... 71
Defense Production Act purchases ... 70
Environmental restoration, Defense (including transfer of funds) ... 65
Goodwill Games ... 65
Humanitarian assistance ... 65
Marine Corps:
Military personnel ... 60
Operation and maintenance ... 62
Procurement ... 69
Reserve personnel ... 60
Marine Corps Reserve: Operation and maintenance ... 63
Military:
Administrative provision ... 13
Comparison of appropriations by departments and establishments ... 2259
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2382
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2358
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2290
Rescissions of appropriations considered during the 2d session of the 100th Congress, arranged by departments and establishments ... 2377
Military Appeals, Court of, Defense ... 65
Military personnel:
Chronological history of regular annual and supplemental appropriation bills ... 2268
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2297
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2349
National Guard and Reserve equipment ... 70
Navy, Department of the:
Aircraft procurement ... 67
Military personnel ... 59

Page

Defense, Department of—Continued
Navy, Department of the—Continued
Operation and maintenance ... 62
Other procurement ... 68
Permanent appropriations—Trust funds ... 2241
Research, development, test, and evaluation ... 71
Reserve personnel ... 60
Shipbuilding and conversion ... 68
Weapons procurement ... 67
Navy Reserve: Operation and maintenance ... 63
Operation and maintenance:
Chronological history of regular annual and supplemental appropriation bills ... 2268
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2297
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2349
Procurement:
Chronological history of regular annual and supplemental appropriation bills ... 2268
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2297
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2349
Research, development, test, and evaluation:
Chronological history of regular annual and supplemental appropriation bills ... 2268
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2298
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2349
Revolving and management funds:
Air Force stock fund ... 73
Army stock fund ... 73
Chronological history of regular annual and supplemental appropriation bills ... 2268
Defense stock fund ... 73
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2298
Navy stock fund ... 73
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2349
Deferral resolutions ... 489
Deferrals of budget authority and outlays arranged by departments and establishments ... 2379
Delaware River Basin Commission:
Contribution to ... 149
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2303
Salaries and expenses ... 149
Dire Emergency Supplemental Appropriations Act, 1988 ... 9
Chronological history of regular annual and supplemental appropriation bills ... 2272
General provision ... 14
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2289
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2257
Recapitulation of itemized estimates and new budget (obligational) authority ... 2351
District of Columbia Appropriations Act, 1989 ... 117
Adjustments ... 132
Cable television enterprise fund ... 124
Capital outlay ... 123, 132
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2300, 2301
Chronological history of regular annual and supplemental appropriation bills ... 2268
Comparison of appropriations by departments and establishments ... 2259
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2382
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1988, arranged by agencies ... 2365
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2358
Criminal justice initiative ... 118
Economic development and regulation ... 119
Supplemental, fiscal year 1988 ... 131
Energy adjustment ... 123

Page

District of Columbia Appropriations Act, 1989—Continued
Enterprise funds: Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2300, 2301
Expenses, division of ... 118
Federal funds:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2300
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2349
Federal payment to the ... 117
General fund deficit, repayment of ... 122
Supplemental, fiscal year 1988 ... 132
General provisions ... 124, 133
Governmental direction and support ... 118
Supplemental, fiscal year 1988 ... 131
Human support services ... 121
Supplemental, fiscal year 1988 ... 131
Inaugural expense payment ... 118
Inaugural expenses ... 122
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2300
Loans and interest, repayment of ... 122
Supplemental, fiscal year 1988 ... 132
Lottery and charitable games enterprise fund ... 124, 133
Optical and dental benefits ... 122
Supplemental, fiscal year 1988 ... 132
Operating expenses: Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2300, 2301
Permanent appropriations—Federal funds ... 2233
Personal services:
Adjustment ... 123
Supplemental, fiscal year 1988 ... 132
Public education system ... 121
Supplemental, fiscal year 1988 ... 131
Public safety and justice ... 119
Supplemental, fiscal year 1988 ... 131
Public works ... 121
Supplemental, fiscal year 1988 ... 132
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2349
Rescissions of appropriations considered during the 2d session of the 100th Congress, arranged by departments and establishments ... 2377
Retirement funds, Federal contribution to ... 117
Saint Elizabeths Hospital, transitional payment for ... 118
Short-term borrowings ... 122
Washington Convention Center fund ... 121
Water and sewer enterprise fund ... 124, 133
Water and sewer services, Federal payment for ... 117

E

Education, Department of:
Acts relating to:
Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 ... 937
Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, to amend the effective date provision of ... 1195
Library Services and Construction Act, to extend the authorization of appropriations for titles V and VI through fiscal year 1989 ... 1218
Public Telecommunications Act of 1988 ... 1220
Technology-Related Assistance for Individuals With Disabilities Act of 1988 ... 1200
To authorize and request the President to call and conduct a White House Conference on Library and Information Services to be held not earlier than September 1, 1989, and not later than September 30, 1991, and for other purposes ... 1196
Authorizations for appropriations, public debt transactions, and contract authorizations approved during the 2d session of the 100th Congress ... 2281
Bilingual, immigrant, and refugee education ... 307
Chronological history of regular annual and supplemental appropriation bills ... 2270

Page

Education, Department of—Continued
College housing and academic facilities loans ... 309
College housing loans ... 310
Comparison of appropriations by departments and establishments ... 2260
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2383
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2358
Departmental management:
Civil Rights, Office for ... 311
Inspector General, Office of the ... 311
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322
Program administration ... 311
Disadvantaged, compensatory education for the ... 306
Educational research and statistics ... 310
Elementary and Secondary Education, Office of:
Indian education ... 273
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2315
General provisions ... 312
Guaranteed student loans ... 309
Handicapped, education for the ... 307
Higher education ... 309
Higher education facilities loans ... 310
Impact aid ... 306
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322, 2346
Libraries ... 310
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Recapitulation of itemized estimates and new budget (obligational) authority ... 2350
Rehabilitation services and handicapped research ... 307
School improvement programs ... 306, 470
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2346
Special Education and Rehabilitative Services, Office of: Permanent appropriations—Trust funds ... 2243
Special institutions:
American Printing House for the Blind ... 310
Gallaudet College ... 311
Howard University ... 311
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322
National Technical Institute for the Deaf ... 311
Student financial assistance ... 308
Summary of estimates not considered, by fiscal years, arranged by departments and establishments ... 2375
Vocational and adult education ... 308
Permanent appropriations—Federal funds ... 2225
Emergency supplemental appropriations, 1988: Chronological history of regular annual and supplemental appropriation bills ... 2272
Energy and Water Development Appropriations Act, 1989 ... 135
Acts relating to:
Federal Energy Management Improvement Act of 1988 ... 1228
Hanford Reach of the Columbia River, to authorize a study of the ... 1227
Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 ... 1234
Authorizations for appropriations, public debt transactions, and contract authorizations approved during the 2d session of the 100th Congress ... 2282
Chronological history of regular annual and supplemental appropriation bills ... 2268
General provisions ... 151
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2302
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2350
Energy, Department of:
Administrative provisions ... 13, 269
Atomic energy defense activities ... 145
Chronological history of regular annual and supplemental appropriation bills ... 2268

Page

Energy, Department of—Continued
Clean coal technology ... 266
Comparison of appropriations by departments and establishments ... 2260
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2383
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2359
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1990, arranged by agencies ... 2367
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1991, arranged by agencies ... 2369
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1992, arranged by agencies ... 2371
Departmental administration ... 146
Energy Information Administration ... 269
Energy programs:
Permanent appropriations:
Federal funds ... 2225
Trust funds ... 2243
Energy supply, research and development activities ... 144
Federal Energy Regulatory Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2303
Salaries and expenses ... 147
Fossil energy research and development ... 267
Economic regulation ... 268
Emergency preparedness ... 268
Energy conservation ... 268
Naval petroleum and oil shale reserves ... 268
Strategic petroleum reserve ... 269
Account ... 269
General provisions ... 148
General science and research activities ... 144
Geothermal resources development fund ... 147
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2303
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2302, 2315
Nuclear waste disposal fund ... 145
Power marketing administrations:
Alaska Power Administration: Operation and maintenance ... 146
Bonneville Power Administration fund ... 146
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2303
Permanent appropriations—Federal funds ... 2225
Southeastern Power Administration, operation and maintenance ... 146
Southwestern Power Administration, operation and maintenance ... 146
Western Area Power Administration, construction, rehabilitation, operation and maintenance ... 147
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255, 2256
Recapitulation of itemized estimates and new budget (obligational) authority ... 2350
Uranium supply and enrichment activities ... 144
Environmental acts:
Acts relating to:
Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, to authorize appropriations to carry out the ... 1240
Lead Contamination Control Act of 1988 ... 1288
Medical Waste Tracking Act of 1988 ... 1293
Mining and Mineral Resources Research Institute Act for fiscal years 1990 through 1993, to authorize appropriations for ... 1255
Mni Wiconi Rural Water Supply Project, to authorize construction of ... 1259
Ocean Dumping Ban Act of 1988 ... 1333
Outer Continental Shelf Operations Indemnification Clarification Act of 1988 ... 1301
Pipeline Safety Reauthorization Act of 1988 ... 1277
Rio Grande Pollution Correction Act of 1987 ... 1239
Toxic Substances Control Act, to amend the to assist States in responding to the threat to human health posed by exposure to radon ... 1268
Water Resources Development Act of 1988 ... 1303

Page

Environmental acts—Continued
Acts relating to—Continued
WEB Rural Water Development Project, South Dakota, to authorize additional appropriations for to authorize the use of Pick-Sloan Missouri Basin electric power by the Lower Brule Sioux Indian Tribe, and to rename certain facilities of the Central Valley Project, California 1258
Authorizations for appropriations, public debt transactions, and contract authorizations approved during the 2d session of the 100th Congress 2282
Environmental Protection Agency:
Abatement, control, and compliance 215
Administrative provisions 216
Buildings and facilities 215
Comparison of appropriations by departments and establishments 2260
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments 2384
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments 2359
Construction grants 216
Hazardous substance Superfund 216
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2310
Leaking underground storage tank trust fund 216
Permanent appropriations—Trust funds 2243
Recapitulation of appropriations by acts, irrespective of fiscal years 2256
Research and development 215
Salaries and expenses 215
Environmental Quality, Council on and Office of: Recapitulation of appropriations by acts, irrespective of fiscal years 2256
Equal Employment Opportunity Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2295
Salaries and expenses 45
Executive Office of the President:
Administration, Office of:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2342
Salaries and expenses 434
Chronological history of regular annual and supplemental appropriation bills 2272
Economic Advisers, Council of:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2342
Salaries and expenses 435
Environmental Quality, Council on, and Office of 216
Executive Residence at the White House:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2342
Operating expenses 434
Federal Procurement Policy, Office of:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2342
Salaries and expenses 436
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2310, 2342, 2347
Management and Budget, Office of:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2342
Salaries and expenses 435
National Critical Materials Council:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2342
Salaries and expenses 435
National Drug Control Policy, Office of:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2347
Salaries and expenses 472
National Security Council:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2342

Page

Executive Office of the President—Continued
National Security Council—Continued
Salaries and expenses ... 435
Policy Development, Office of:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2342
Salaries and expenses ... 435
President:
Compensation of the ... 434
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2342
Funds appropriated to:
Management improvement, expenses of ... 436
Unanticipated needs ... 436
Special assistance to the:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2342
Salaries and expenses ... 435
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2257
Recapitulation of itemized estimates and new budget (obligational) authority ... 2351
Science and Technology Policy, Office of ... 217
Vice President, Official Residence of the:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2342
Operating expenses ... 435
White House Office:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2342
Salaries and expenses ... 434
Export assistance:
Chronological history of regular annual and supplemental appropriation bills ... 2268
Export-Import Bank of the United States ... 174
Administrative expenses, limitation on ... 174
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2307
Program activity, limitation on ... 174
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2350

F

Farm Credit Administration:
Administrative expenses, limitation on revolving fund for ... 385
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2336
Federal Communications Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2295
Salaries and expenses ... 45
Federal Deposit Insurance Corporation: Permanent appropriations—Trust funds ... 2250
Federal Election Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2343
Salaries and expenses ... 437
Federal Emergency Management Agency:
Disaster relief ... 217
Emergency food and shelter program ... 218
Emergency management planning and assistance ... 217
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2311
National flood insurance fund (transfers of funds) ... 218
Permanent appropriations:
Federal funds ... 2234
Trust funds ... 2250
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Salaries and expenses ... 217
Federal Home Loan Bank Board:
Administrative expenses, limitation on ... 228

Page

Federal Home Loan Bank Board—Continued
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2312
Permanent appropriations—Federal funds ... 2234
Federal Labor Relations Authority:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2344
Salaries and expenses ... 450
Federal Maritime Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2295
Salaries and expenses ... 46
Federal Mediation and Conciliation Service:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322
Salaries and expenses ... 313
Federal Mine Safety and Health Review Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322
Salaries and expenses ... 313
Federal Pay, Advisory Committee on:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2343
Salaries and expenses ... 437
Federal Retirement Thrift Investment Board: Permanent appropriations—Federal funds ... 2234
Federal Savings and Loan Insurance Corporation: Administrative expenses, limitation on ... 228
Federal Trade Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2295
Salaries and expenses ... 46
Fine Arts, Commission of:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2316
Salaries and expenses ... 277
Foreign assistance:
Comparison of appropriations by departments and establishments ... 2260
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2384
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2359
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 ... 155
Chronological history of regular annual and supplemental appropriation bills ... 2268
General provisions ... 175
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2305
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2350
Summary of estimates not considered, by fiscal years, arranged by departments and establishments ... 2375
Franklin Delano Roosevelt Memorial Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2316
Salaries and expenses ... 277
Funds Appropriated to the President:
International Development, Agency for:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2308
Trade credit insurance program ... 175
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2348
Permanent appropriations:
Federal funds ... 2222
Trust funds ... 2240
Trade and development program ... 175
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2308

G

General government:
Acts relating to:
Anti-Drug Abuse Act of 1988 ... 1409

Page

General government—Continued
Acts relating to—Continued
Commission on Wartime Relocation and Internment of Civilians, to implement recommendations of the ... 1355
Disaster Relief and Emergency Assistance Amendments of 1988 ... 1412
Inspector General Act Amendments of 1988 ... 1371
National Historical Publications and Records Commission Amendments of 1988 ... 1353
Office of Government Ethics, to reauthorize the ... 1404
Patent and Trademark Office in the Department of Commerce, to authorize appropriations for ... 1409
Presidential Transitions Effectiveness Act ... 1367
Small Business Administration Reauthorization and Amendment Act of 1988 ... 1386
Authorizations for appropriations, public debt transactions, and contract authorizations approved during the 2d session of the 100th Congress ... 2282
Comparison of appropriations by departments and establishments ... 2260
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2384
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2359
General Services Administration:
Comparison of appropriations by departments and establishments ... 2261
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2384
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2360
Consumer Information Center ... 218
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2311
Federal buildings fund (limitation on availability of revenue) ... 437
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2343
Federal property resources activities: Permanent appropriations—Federal funds ... 2225
Federal Property Resources Service:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2343
Operating expenses ... 443
Federal Supply Service:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2343
Operating expenses ... 443
General management and administration:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2343
Salaries and expenses ... 444
General provisions ... 445
Information Resources Management Service:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2343
Operating expenses ... 444
Inspector General, Office of ... 444
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2343
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2311, 2329, 2343
National defense stockpile transaction fund ... 445
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2343
Personal property activities: Permanent appropriations—Federal funds ... 2225
Presidental transition, expenses ... 444
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2343
Presidents, allowances and office staff for former ... 444
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2343
Real property relocation ... 443
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2343

Page

H

Handicapped, National Council on the:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322
Salaries and expenses ... 314
Harry S Truman Scholarship Foundation: Permanent appropriations—Trust funds ... 2250
Health and Human Services, Department of:
Acts relating to:
Abandoned Infants Assistance Act of 1988 ... 1543
AIDS, to provide for the awarding of grants for the purchase of drugs used in the treatment of ... 1469
Child Abuse Prevention, Adoption, and Family Services Act of 1988 ... 1439
Community and Migrant Health Centers Amendments of 1988 ... 1464
Family Support Act of 1988 ... 1469
Handicapped Programs Technical Amendments Act of 1988 ... 1717
Health Omnibus Programs Extension of 1988 ... 1557
International Child Abduction Remedies Act ... 1460
Native Hawaiian Health Care Act of 1988 ... 1550
Orphan Drug Amendments of 1988 ... 1437
Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1988 ... 1547
Stewart B. McKinney Homeless Assistance Amendments Act of 1988 ... 1664
Alcohol, Drug Abuse, and Mental Health Administration:
Alcohol, drug abuse, and mental health ... 297, 469
Authorizations for appropriations, public debt transactions, and contract authorizations approved during the 2d session of the 100th Congress ... 2282
Comparison of appropriations by departments and establishments ... 2261
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2319, 2346
Saint Elizabeths Hospital, Federal subsidy for ... 297
Centers for Disease Control:
Comparison of appropriations by departments and establishments ... 2261
Disease control, research, and training ... 293
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2319
Chronological history of regular annual and supplemental appropriation bills ... 2270
Comparison of appropriations by departments and establishments ... 2261
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2385
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1988, arranged by agencies ... 2365
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2360
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1991, arranged by agencies ... 2369
Consumer Affairs, Office of ... 218
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2311
Departmental management:
Civil Rights, Office for ... 302
Comparison of appropriations by departments and establishments ... 2261
General departmental management ... 302
Inspector General, Office of the ... 302
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2321
Policy research ... 303
Family Support Administration:
Community services block grant ... 301
National Youth Sports Program ... 470
Comparison of appropriations by departments and establishments ... 2261
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1990, arranged by agencies ... 2367
Family support payments to States ... 300
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2321, 2346
Low income home energy assistance ... 301
Permanent appropriations: Federal funds ... 2226
Program administration ... 301

Page

Health and Human Services, Department of—Continued
Family Support Administration—Continued
Refugee and entrant assistance ... 301
Summary of estimates not considered, by fiscal years, arranged by departments and establishments ... 2375
Work incentives ... 301
Food and Drug Administration:
Buildings and facilities ... 384
Comparison of appropriations by departments and establishments ... 2261
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2289, 2336, 2346
Rental payments ... 385
Salaries and expenses ... 12, 384, 470
General provisions ... 303
Health Care Financing Administration:
Comparison of appropriations by departments and establishments ... 2261
Health care trust funds, payments to ... 299
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2320
Medicaid, grants to States for ... 298
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1990, arranged by agencies ... 2367
Permanent appropriations:
Federal funds ... 2226
Trust funds ... 2243
Program management ... 299
Summary of estimates not considered, by fiscal years, arranged by departments and establishments ... 2375
Health, National Institutes of:
Buildings and facilities ... 296
Comparison of appropriations by departments and establishments ... 2261
Director, Office of the ... 296
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2319
John E. Fogarty International Center ... 296
National Cancer Institute ... 294
National Center for Nursing Research ... 296
National Eye Institute ... 295
National Heart, Lung, and Blood Institute ... 294
National Institute of Allergy and Infectious Diseases ... 295
National Institute of Arthritis and Musculoskeletal and Skin Diseases ... 295
National Institute of Child Health and Human Development ... 295
National Institute of Dental Research ... 295
National Institute of Diabetes, and Digestive and Kidney Diseases ... 295
National Institute of Environmental Health Sciences ... 295
National Institute of General Medical Sciences ... 295
National Institute of Neurological and Communicative Disorders and Stroke ... 295
National Institute on Aging ... 295
National Library of Medicine ... 296
Research resources ... 296
Health, Office of Assistant Secretary for:
Commissioned officers, retirement pay and medical benefits for ... 298
Comparison of appropriations by departments and establishments ... 2261
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2320
Permanent appropriations—Trust funds ... 2243
Public Health Service management ... 297
Vaccine injury compensation trust fund ... 298
Health Resources and Services Administration:
Comparison of appropriations by departments and establishments ... 2261
Indian health facilities ... 271
Indian health services ... 270
Administrative provisions ... 271
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2319
Medical facilities guarantee and loan fund: Federal interest subsidies for medical facilities ... 293
Permanent appropriations—Federal funds ... 2226

Page

Health and Human Services, Department of—Continued
Human Development Services Administration:
Comparison of appropriations by departments and establishments ... 2261
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2346
Human Development Services, Assistant Secretary for:
Foster care and adoption assistance, payments to States for ... 302
Human development services ... 302, 470
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2321
Social services block grant ... 302
Summary of estimates not considered, by fiscal years, arranged by departments and establishments ... 2375
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2311, 2319, 2336, 2346
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Recapitulation of itemized estimates and new budget (obligational) authority ... 2350
Social Security Administration:
Administrative expenses, limitation on ... 300
Coal miners, special benefits for disabled ... 299
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1990, arranged by agencies ... 2367
Comparison of appropriations by departments and establishments ... 2261
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2320
Permanent appropriations:
Federal funds ... 2226
Trust funds ... 2243
Social Security trust funds, payments to ... 299
Summary of estimates not considered, by fiscal years, arranged by departments and establishments ... 2375
Supplemental security income program ... 300
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1990, arranged by agencies ... 2367
Summary of estimates not considered, by fiscal years, arranged by departments and establishments ... 2375
Historic Preservation, Advisory Council on:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2316
Permanent appropriations—Trust funds ... 2249
Salaries and expenses ... 277
Housing and Urban Development, Department of:
Chronological history of regular annual and supplemental appropriation bills ... 2270
Community planning and development:
Community development grants ... 211
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2309
Rehabilitation loan fund ... 212
Solar and conservation improvements, assistance for ... 212
Urban homesteading ... 212
Comparison of appropriations by departments and establishments ... 2261
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2385
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2360
Emergency shelter grants program ... 210
Fair housing and equal opportunity:
Fair housing activities ... 212
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2309
Federal Housing Administration fund ... 210
Government National Mortgage Association:
Guarantees of mortgage-backed securities ... 211
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2309
Permanent appropriations—Federal funds ... 2227
Homeless, International Council on the ... 210
Housing programs and community planning and development:
Annual contributions for assisted housing (including rescission) ... 207

Page

Housing and Urban Development, Department of—Continued
Housing programs and community planning and development—Continued
Congregate services ... 209
Flexible subsidy fund ... 210
Housing counseling assistance ... 209
Housing for the elderly or handicapped fund ... 209
Comparison of budget estimates and loan and borrowing authorizations carried in appropriation acts ... 2275
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2309
Low-income housing projects, payments for operation of ... 209
Permanent appropriations—Federal funds ... 2226
Rental housing assistance (rescission) ... 209
Comparison of budget estimates and contract authorizations carried in appropriation acts ... 2277
Rental rehabilitation grants ... 208
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2309
Management and administration:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2310
Permanent appropriations—Trust funds ... 2244
Salaries and expenses (including transfer of funds) ... 213
Nonprofit sponsor assistance ... 211
Policy development and research:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2309
Research and technology ... 212
Public and Indian housing programs: Permanent appropriations—Federal funds ... 2227
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2350
Rescissions of appropriations considered during the 2d session of the 100th Congress, arranged by departments and establishments ... 2377
Transitional and supportive housing demonstration program ... 210
Housing and Urban Development—Independent Agencies Appropriations Act, 1989 ... 207
Chronological history of regular annual and supplemental appropriation bills ... 2270
General provisions ... 228
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2309
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2350

I

Indian education: Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Indian Health Service:
Comparison of appropriations by departments and establishments ... 2261
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1990, arranged by agencies ... 2367
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2315
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Information Agency, U.S.:
Cuba, radio broadcasting to ... 50
East-West center ... 51
Educational and cultural exchange programs ... 50
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2296
National endowment for democracy ... 51
Permanent appropriations—Trust funds ... 2251
Radio construction ... 50
Salaries and expenses ... 49
Intelligence Community Staff ... 74
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2298
Inter-American Foundation ... 168
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2306
Intergovernmental Relations, Advisory Commission on:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2343

Page

Intergovernmental Relations, Advisory Commission on—Continued
Permanent appropriations—Trust funds ... 2249
Salaries and expenses ... 437
Interior and Related Agencies Appropriations Act, 1989 ... 233
Acts relating to:
Arizona-Idaho Conservation Act of 1988 ... 1863
Big Cypress National Preserve Addition Act ... 1743
Canaveral National Seashore, to authorize and direct the acquisition of lands for ... 1811
Charles Pinckney National Historic Site, to authorize the establishment of the in the State of South Carolina ... 1759
Coastal Heritage Trail Route in the State of New Jersey, to provide for the establishment of the ... 1772
Colorado Ute Indian Water Rights Settlement Act of 1988 ... 1833
Congaree Swamp National Monument Expansion and Wilderness Act ... 1775
Constitution Heritage Act of 1988 ... 1762
Coushatta Tribe of Louisiana, to settle certain land claims of the against the United States, to authorize the use and distribution of the settlement funds, and for other purposes ... 1757
Crow Tribe, to provide for the transfer of certain funds to the Secretary of the Interior for the benefit of certain members of the ... 1748
Delaware Water Gap National Recreation Area Citizen Advisory Commission, to establish the ... 1821
Federal Fire Prevention and Control Act of 1974, to authorize appropriations for activities under the ... 1767
Forest Wildfire Emergency Pay Equity Act of 1988 ... 1774
Grays Harbor National Wildlife Refuge, to establish the ... 1754
Guadalupe Mountains National Park, to modify the boundary of the ... 1785
Hoopa-Yurok Settlement Act ... 1822
Indian Financing Act of 1974, to amend the ... 1764
Indian Health Care Amendments of 1988 ... 1910
Lewis and Clark National Historic Trail Interpretive Center in the State of Montana, to authorize the establishment of the ... 1786
Natchez, Mississippi, to create a national park at ... 1767
National Park of American Samoa, to establish the ... 1817
Navajo and Hopi Indian Relocation Amendments of 1988 ... 1849
Omnibus Oregon Wild and Scenic Rivers Act of 1988 ... 1790
Omnibus Public Lands and National Forests Adjustments Act of 1988 ... 1904
Pennsylvania Avenue Development Corporation Act of 1972, to amend the to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House ... 1759
Pinelands National Reserve, in the State of New Jersey, to authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the ... 1770
Poverty Point National Monument, to provide for the establishment of the ... 1806
Salinas National Monument in the State of New Mexico, to redesignate ... 1802
San Francisco Maritime National Historical Park Act of 1988 ... 1750
San Luis Rey Indian Water Rights Settlement Act ... 1854
Sewall-Belmont House National Historic Site, to increase the amount authorized to be appropriated with respect to the ... 1753
Southwestern Pennsylvania Heritage Preservation Commission, to establish in the Department of the Interior ... 1899
Temporary Emergency Wildfire Suppression Act ... 1760
To reauthorize and amend certain wildlife laws ... 1839
West Virginia National Interest River Conservation Act of 1987 ... 1777
Wildcat River in the State of New Hampshire, to designate a segment of the as a component of the National Wild and Scenic Rivers System ... 1788
Women's Rights National Historical Park, to increase the amount authorized to be appropriated for acquisition at the ... 1766
Yosemite National Park, to authorize additional appropriations for the Central Utah Project, to implement a settlement with the Strawberry Water Users, to expand the John Muir Historic Site, to prohibit the expansion of any reservoir within the boundaries of ... 1808
Zuni-Cibola National Historical Park Establishment Act of 1988 ... 1812
Authorizations for appropriations, public debt transactions, and contract authorizations approved during the 2d session of the 100th Congress ... 2283
Chronological history of regular annual and supplemental appropriation bills ... 2270
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1990, arranged by agencies ... 2367

Page

Interior and Related Agencies Appropriations Act, 1989—Continued
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1991, arranged by agencies ... 2369
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1992, arranged by agencies ... 2371
General provisions ... 278
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2313
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Recapitulation of itemized estimates and new budget (obligational) authority ... 2350
Interior, Department of the:
Chronological history of regular annual and supplemental appropriation bills ... 2268, 2270
Comparison of appropriations by departments and establishments ... 2261
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2385
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2360
Departmental offices:
Administrative provisions ... 256
Comparison of appropriations by departments and establishments ... 2262
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2314
Secretary, Office of the: Salaries and expenses ... 256
Solicitor, Office of the:
Construction management ... 256
Inspector General, Office of ... 256
Salaries and expenses ... 256
Fish and Wildlife Service, U.S.:
Administrative provisions ... 237
Comparison of appropriations by departments and establishments ... 2261
Construction and anadromous fish ... 236
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2313
Land acquisition ... 236
Permanent appropriations:
Federal funds ... 2229
Trust funds ... 2244
National wildlife refugee fund ... 237
Resource management ... 236
General provisions ... 143, 256
Geological Survey:
Administrative provisions ... 248
Comparison of appropriations by departments and establishments ... 2262
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2313
Permanent appropriations—Federal funds ... 2229
Surveys, investigations, and research ... 247
Indian Affairs, Bureau of:
Administrative provisions ... 253
Comparison of appropriations by departments and establishments ... 2262
Construction ... 253
Indian programs, operation of ... 251
Indians, miscellaneous payments to ... 253
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2314
Miscellaneous trust funds:
Indian loan guaranty and insurance fund ... 253
Loans, revolving fund for ... 253
Permanent appropriations:
Federal funds ... 2230
Trust funds ... 2245
Road construction ... 253
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2302, 2313
Land Management, Bureau of:
Administrative provisions ... 235
Comparison of appropriations by departments and establishments ... 2261
Construction and access ... 234

Page

Interior, Department of the—Continued
Land Management, Bureau of—Continued
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2313
Lands and resources, management of ... 233
Miscellaneous trust funds ... 235
Oregon and California grant lands ... 234
Permanent appropriations:
Federal funds ... 2227
Trust funds ... 2244
Range improvements ... 234
Service charges, deposits, and forfeitures ... 234
Taxes, payments in lieu of ... 234
Minerals Management Service:
Comparison of appropriations by departments and establishments ... 2262
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2313
Leasing and royalty management ... 248
Permanent appropriations—Federal funds ... 2228
Mines, Bureau of:
Administrative provisions ... 249
Comparison of appropriations by departments and establishments ... 2262
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2313
Mines and minerals ... 249
Permanent appropriations—Trust funds ... 2244
National Park Service:
Administrative provisions ... 246
American Revolution Bicentennial Commission ... 240
Comparison of appropriations by departments and establishments ... 2262
Construction ... 239
Comparison of budget estimates and appropriations to liquidate contract authorizations ... 2279
Historic preservation fund ... 239
Illinois and Michigan Canal National Heritage Corridor Commission ... 240
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2313
John F. Kennedy Center for the Performing Arts ... 240
Land acquisition and State assistance ... 240
Land and Water Conservation Fund (rescission) ... 240
Comparison of budget estimates and contract authorizations carried in appropriation acts ... 2277
National Film Preservation Board: Salaries and expenses ... 240
National recreation and preservation ... 239
Operation of the ... 238
Permanent appropriations:
Federal funds ... 2229
Trust funds ... 2244
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255, 2256
Recapitulation of itemized estimates and new budget (obligational) authority ... 2350
Reclamation, Bureau of ... 138
Administrative provisions ... 142
Comparison of appropriations by departments and establishments ... 2261
Construction program ... 139
Emergency fund ... 141
General administration expenses ... 141
General investigations ... 138
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2302
Loan program ... 141
Operation and maintenance ... 140
Permanent appropriations:
Federal funds ... 2228
Trust funds ... 2244
Special funds (transfer of funds) ... 142
Working capital fund ... 141
Rescissions of appropriations considered during the 2d session of the 100th Congress, arranged by departments and establishments ... 2377

Page

Interior, Department of the—Continued
Surface Mining Reclamation and Enforcement, Office of:
Abandoned mine reclamation fund 250
Comparison of appropriations by departments and establishments 2262
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2313
Regulation and technology 249
Territorial and international affairs:
Compact of Free Association 255
Comparison of appropriations by departments and establishments 2262
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2314
Pacific Islands, Trust Territory of the 254
Permanent appropriations—Federal funds 2230
Territories, administration of 254
International Migration and Cooperative Economic Development, Commission for the Study of:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2295
Salaries and expenses 45
International Trade Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2295
Salaries and expenses 46
Interstate Commerce Commission:
Directed rail service, payments for (limitation on obligations) 413
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2340
Salaries and expenses 413
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2287

J

James Madison Memorial Fellowship Foundation:
Permanent appropriations:
Federal funds 2234
Trust funds 2250
Japan-United States Friendship Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2295
Japan-United States friendship trust fund 46
Judicial acts:
Acts relating to:
Judicial Improvements and Access to Justice Act 1965
Judiciary Office Building Development Act 1959
Authorizations for appropriations, public debt transactions, and contract authorizations approved during the 2d session of the 100th Congress 2284
Judiciary, the:
Chronological history of regular annual and supplemental appropriation bills 2268
Comparison of appropriations by departments and establishments 2262
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments 2386
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments 2361
Courts of Appeals, district courts, and other judicial services:
Court security 41
Defender services 40, 469
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2294, 2345
Jurors and commissioners, fees of 41, 469
Salaries and expenses 40, 469
Federal circuit, U.S. court of appeals for the:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2294
Salaries and expenses 39
Federal Judicial Center:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2294
Salaries and expenses 41
General provisions 41

Page

Judiciary, the—Continued
International Trade, U.S. Court of:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2294
Salaries and expenses ... 40
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2293, 2345
Permanent appropriations—Trust funds ... 2239
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2349
Sentencing Commission, U.S.:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2294
Salaries and expenses ... 41
Supreme Court of the United States:
Buildings and grounds, care of the ... 39
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2293
Salaries and expenses ... 39
U.S. Courts, Administrative Offices of the:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2294
Salaries and expenses ... 41
Justice, Department of:
Chronological history of regular annual and supplemental appropriation bills ... 2268
Comparison of appropriations by departments and establishments ... 2262
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2386
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1988, arranged by agencies ... 2365
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2361
Drug Enforcement Administration:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2292, 2345
Salaries and expenses ... 26, 468
Federal Bureau of Investigation:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2292, 2345
Salaries and expenses ... 25, 468
Federal Prison System:
Buildings and facilities ... 27, 468
Federal Prison Industries, Inc ... 27
Administrative and vocational expenses, limitation on ... 28
Comparison of budget estimates and loan and borrowing authorizations carried in appropriation acts ... 2275
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2289, 2292, 2345
National Institute of Corrections ... 27
Salaries and expenses ... 11, 27
General administration:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2292
Salaries and expenses ... 23
General provisions ... 29
Immigration and Naturalization Service:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2292, 2345
Permanent appropriations—Federal funds ... 2230
Salaries and expenses ... 26, 468
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2292, 2345
Justice Programs, Office of:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2295, 2345
Justice assistance ... 28, 468
Permanent appropriations—Federal funds ... 2231

Page

Justice, Department of—Continued
Legal activities:
Antitrust Division: Salaries and expenses 24
Assets forfeiture fund 25, 468
Attorneys, U.S.: Salaries and expenses 24, 468
Community Relations Service: Salaries and expenses 11, 25
Foreign Claims Settlement Commission: Salaries and expenses 24
General legal activities: Salaries and expenses 23, 467
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2289, 2292, 2345
Marshals Service, U.S.: Salaries and expenses 11, 24, 468
Permanent appropriations—Federal funds 2230
Prisoners, support of United States 11, 24, 468
Trustee system fund, U.S. 24
Witnesses, fees and expenses of 25
Recapitulation of appropriations by acts, irrespective of fiscal years 2255
Recapitulation of itemized estimates and new budget (obligational) authority 2349
U.S. Parole Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2292
Salaries and expenses 23

L

Labor, Department of:
Chronological history of regular annual and supplemental appropriation bills 2270
Comparison of appropriations by departments and establishments 2262
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments 2386
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments 2361
Departmental management:
Inspector General, Office of the 291
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2318, 2345
Salaries and expenses 291, 469
Veterans Employment and Training, Assistant Secretary for 291
Employment and Training Administration:
Community service employment for older Americans 286
Federal unemployment benefits and allowances 286
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2318
Permanent appropriations—Trust funds 2245
Program administration 285
State unemployment insurance and employment service operations 9, 287
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2289
Training and employment services 285
Unemployment trust funds and other funds, advances to the 9, 287
Employment Standards Administration:
Black lung disability trust fund (including transfer of funds) 289
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2318
Permanent appropriations—Trust funds 2245
Salaries and expenses 288
Special benefits (including transfer of funds) 288
General provisions 292
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2318, 2345
Labor-Management Services:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2318
Salaries and expenses 288
Labor Statistics, Bureau of:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2318
Salaries and expenses 291

Page

Labor, Department of—Continued
Mine Safety and Health Administration:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2318
Salaries and expenses 291
Occupational Safety and Health Administration:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2318
Salaries and expenses 289
Pension Benefit Guaranty Corporation:
Fund 288
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2318
Recapitulation of appropriations by acts, irrespective of fiscal years 2256
Recapitulation of itemized estimates and new budget (obligational) authority 2350
Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989 285
Chronological history of regular annual and supplemental appropriation bills 2270
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1990, arranged by agencies 2367
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1991, arranged by agencies 2369
General provisions 317
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2318
Recapitulation of appropriations by acts, irrespective of fiscal years 2256
Recapitulation of itemized estimates and new budget (obligational) authority 2350
Legal Services Corporation:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2295
Payment to the 47
Legislative Branch Appropriations Act, 1989 323
Chronological history of regular annual and supplemental appropriation bills 2270
General provisions 345
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2324
Recapitulation of appropriations by acts, irrespective of fiscal years 2256
Recapitulation of itemized estimates and new budget (obligational) authority 2351
Legislative branch:
Administrative provisions 335
Appropriations, Committee on (Studies and investigations) 329
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2326
Architect of the Capitol:
Architect of the Capitol, Office of the:
Contingent expenses 333
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2327
Salaries 333
Travel 333
Capitol buildings and grounds:
Capitol buildings 334
Capitol grounds 334
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2327
Senate Office Buildings 334
Capitol Power Plant 334
House Office Buildings 334
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2327
Library buildings and grounds:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2328
Structural and mechanical care 342
Biomedical Ethics Board:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2327
Salaries and expenses 333

Page

Legislative branch—Continued
Botanic Garden:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2328
Salaries and expenses ... 340
Comparison of appropriations by departments and establishments ... 2262
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2387
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2361
Congressional Budget Office:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2327
Salaries and expenses ... 333
Congressional operations:
Chronological history of regular annual and supplemental appropriation bills ... 2270
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2324
Copyright Royalty Tribunal:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2328
Salaries and expenses ... 342
General Accounting Office:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2328
Salaries and expenses ... 344
Government Printing Office:
Administrative provision ... 343
Congressional printing and binding ... 336
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2328
Revolving fund ... 343
Superintendent of Documents, Office of: Salaries and expenses ... 342
House of Representatives:
Administrative provision ... 330
Budget, Committee on the (Studies) ... 329
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2325
Committee employees ... 329
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2325
Contingent expenses of the House:
Allowances and expenses ... 329
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2325
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2325
Standing committees, special and select ... 329
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2325
House leadership offices ... 328
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2325
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2325
Members' clerk hire ... 328
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2325
Members of Congress, payments to widows and heirs of deceased: Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2325
Mileage of Members ... 328
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2325
Permanent appropriations—Federal funds ... 2221
Salaries and expenses ... 328
Salaries, officers and employees ... 329
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2326

Page

Legislative branch—Continued
John C. Stennis Center for Public Service Training and Development: Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2328
Joint items:
Appropriations, statement of ... 332
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2327
Attending Physician, Office of the ... 331
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2326
Capitol Guide Service ... 332
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2327
Capitol Police Board:
Capitol Police salaries ... 331
General expenses ... 331
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2327
House, contingent expenses of the: Joint Committee on Taxation ... 331
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2326
Inaugural Ceremonies of 1989, Joint Committee on ... 330
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2326
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2326
Official mail costs ... 332
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2327
Senate, contingent expenses of the:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2326
Joint Economic Committee ... 330
Joint Committee on Printing ... 331
Library of Congress:
Administrative provisions ... 342
Books for the Blind and Physically Handicapped: Salaries and expenses ... 341
Congressional Research Service:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2327
Salaries and expenses ... 335
Copyright Office: Salaries and expenses ... 341
Furniture and furnishings ... 341
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2327, 2328
Permanent appropriations:
Federal funds ... 2221
Trust funds ... 2239
Salaries and expenses ... 340
Speaker's Civic Achievement Awards Program: Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2328
Other legislative branch agencies: Permanent appropriations—Federal funds ... 2222
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Recapitulation of itemized estimates and new budget (obligational) authority ... 2351
Senate:
Administrative provisions ... 326
Contingent expenses of the Senate:
Expenses of United States Senate Caucus on International Narcotics Control ... 325
Inquiries and investigations ... 325
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2325
Miscellaneous items ... 325
Secretary of the Senate ... 325
Senate Policy Committees ... 325
Senators' official personnel and office expense account ... 325
Sergeant at Arms and Doorkeeper of the Senate ... 325
Stationery (revolving fund) ... 325

Page

Legislative branch—Continued
Senate—Continued
Expense allowances of the Vice President, the president pro tempore, majority and minority leaders, majority and minority whips, and chairmen of the majority and minority conference committees ... 323
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2324
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2324
Legislative Counsel of the Senate, Office of the ... 324
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2324
Mileage of the Vice President and Senators ... 323
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2324
Permanent appropriations—Federal funds ... 2221
Representation allowances for the majority and minority leaders ... 323
Salaries, officers and employees ... 324
Agency contributions ... 324
Chaplain, Office of the ... 324
Conference committees ... 324
Expense allowances of the Secretary of the Senate, Sergeant at Arms and Doorkeeper of the Senate, and Secretaries for the majority and minority of the Senate ... 325
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2324
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2324
Majority and Minority Leaders, Office of the ... 324
Majority and Minority Whips, Office of the ... 324
President Pro Tempore, Office of the ... 324
Deputy ... 324
Secretaries for the Majority and Minority, Offices of the ... 324
Secretaries of the Conference of the Majority and the Conference of the Minority, Offices of the ... 324
Secretary, Office of the ... 324
Senate Legal Counsel, Office of ... 325
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2324
Sergeant at Arms and Doorkeeper, Office of the ... 324
Vice President, Office of the ... 324
Technology Assessment, Office of:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2327
Permanent appropriations—Trust funds ... 2239
Salaries and expenses ... 332
Libraries and Information Science, National Commission on:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322
Salaries and expenses ... 314

M

Marine Mammal Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2295
Salaries and expenses ... 47
Merit Systems Protection Board:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2343
Salaries and expenses ... 449
Special Counsel, Office of: Salaries and expenses ... 450
Migrant Education, National Commission on ... 314
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322
Military assistance:
Chronological history of regular annual and supplemental appropriation bills ... 2268
Funds appropriated to the President:
Foreign military financing program ... 171
Foreign military sales debt reform ... 172

Page

Military assistance—Continued
Funds appropriated to the President—Continued
Guaranty reserve fund ... 173
International military education and training ... 171
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2307
Military assistance ... 170
Peacekeeping operations ... 173
Special defense acquisition fund ... 173
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2350
Military construction:
Air Force ... 350
Air Force Reserve ... 351
Air National Guard ... 351
Army ... 349
Army National Guard ... 351
Army Reserve ... 351
Coast Guard shore facilities ... 350
Defense agencies ... 350
Family housing:
Air Force ... 352
Army ... 351
Defense agencies ... 352
Homeowners assistance fund, defense ... 352
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2330
Navy and Marine Corps ... 351
Permanent appropriations—Federal funds ... 2224
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2330
Naval Reserve ... 351
Navy ... 349
North Atlantic Treaty Organization infrastructure ... 350
Permanent appropriations—Federal funds ... 2224
Military Construction Appropriations Act, 1989 ... 349
Chronological history of regular annual and supplemental appropriation bills ... 2270
General provisions ... 352
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2330
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Recapitulation of itemized estimates and new budget (obligational) authority ... 2351
Multilateral economic assistance:
Chronological history of regular annual and supplemental appropriation bills ... 2268
Funds appropriated to the President:
International financial institutions:
African development fund, contribution to the ... 157
Asian Development Bank, contribution to the ... 157
Callable capital subscriptions, limitation on ... 157
Asian development fund, contribution to the ... 156, 157
International Development Association, contribution to the ... 155, 156
International Finance Corporation, contribution to the ... 156
International organizations and programs ... 158
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2305
Reconstruction and Development, International Bank for, contribution to the ... 156
Callable capital subscriptions, limitation on ... 156
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2350

N

National Aeronautics and Space Administration:
Comparison of appropriations by departments and establishments ... 2262
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2387
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2361

Page

National Aeronautics and Space Administration—Continued
Facilities, construction of ... 219
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2290, 2311
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Rescissions of appropriations considered during the 2d session of the 100th Congress, arranged by departments and establishments ... 2377
Research and development ... 218
Research and program management ... 14, 220
Science, space, and technology education trust fund ... 220
Space flight, control and data communications ... 219
National Archives and Records Administration:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2343
Operating expenses ... 448
Permanent appropriations—Trust funds ... 2250
National Capital Arts and Cultural Affairs ... 277
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2316
National Capital Planning Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2316
Salaries and expenses ... 277
National Credit Union Administration:
Central liquidity facility ... 221
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2311
National Labor Relations Board:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322
Salaries and expenses ... 314
National Mediation Board:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322
Salaries and expenses ... 315
National Science Foundation:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2311
Permanent appropriations—Trust funds ... 2251
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Research and related activities ... 221
Science education activities ... 222
U.S. Antarctic program activities ... 222
National Transportation Safety Board:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2340
Salaries and expenses ... 413
Navajo and Hopi Indian Relocation Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2315
Salaries and expenses ... 273
Neighborhood Reinvestment Corporation:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2311
Payment to the ... 223
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Nicaraguan democratic resistance, assistance to the ... 105
Nuclear Regulatory Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2303
Salaries and expenses ... 150

O

Occupational Safety and Health Review Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322
Salaries and expenses ... 315
Overseas Private Investment Corporation ... 168
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2306

P

Panama Canal Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2340

Page

Transportation, Department of—Continued
Federal Railroad Administration—Continued
Permanent appropriations—Federal funds ... 2232
Railroad rehabilitation and improvement financing funds ... 410
Railroad research and development ... 409
Railroad safety ... 409
Inspector General, Office of the:
Comparison of appropriations by departments and establishments ... 2263
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2340
Salaries and expenses ... 412
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2337, 2346
Maritime Administration:
Administrative provisions ... 43
Comparison of appropriations by departments and establishments ... 2263
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2294
Operating-differential subsides (liquidation of contract authority) ... 42
Comparison of budget estimates and appropriations to liquidate contract authorizations ... 2279
Operations and training ... 42
Permanent appropriations:
Federal funds ... 2232
Trust funds ... 2248
Ready Reserve Force ... 42
National Highway Traffic Safety Administration:
Comparison of appropriations by departments and establishments ... 2263
Highway traffic safety grants:
Comparison of budget estimates and appropriations to liquidate contract authorizations ... 2279
Contract authorization, liquidation of (highway trust fund) ... 408
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2339
Operations and research ... 407
Highway trust fund ... 407
Permanent appropriations—Trust funds ... 2247
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2257
Recapitulation of itemized estimates and new budget (obligational) authority ... 2351
Rescissions of appropriations considered during the 2d session of the 100th Congress, arranged by departments and establishments ... 2377
Research and Special Programs Administration:
Comparison of appropriations by departments and establishments ... 2263
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2339
Pipeline safety (pipeline safety fund) ... 412
Research and special programs ... 412
Saint Lawrence Seaway Development Corporation ... 412
Comparison of appropriations by departments and establishments ... 2263
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2339
Operations and maintenance ... 412
Rebate of seaway tolls ... 414
Secretary, Office of the:
Air carriers, payments to ... 396
Comparison of appropriations by departments and establishments ... 2263
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2339
Salaries and expenses ... 395
Transportation planning, research, and development ... 395
Working capital fund ... 396
Urban Mass Transportation Administration:
Administrative expenses ... 410
Comparison of appropriations by departments and establishments ... 2263
Discretionary grants: Obligations, limitation on (highway trust fund) ... 411
Formula grants ... 411
Comparison of budget estimates and appropriations to liquidate contract authorizations ... 2279

Page

Transportation, Department of—Continued
Urban Mass Transportation Administration—Continued
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2338
Interstate transfer grants—Transit ... 411
Mass transit capital fund:
Comparison of budget estimates and appropriations to liquidate contract authorizations ... 2279
Contract authorization, liquidation of (highway trust fund) ... 411
Permanent appropriations—Trust funds ... 2248
Research, training, and human resources ... 411
Washington metro ... 411
Treasury, Department of the:
Alcohol, Tobacco and Firearms, Bureau of:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2342, 2346
Permanent appropriations—Federal funds ... 2232
Salaries and expenses ... 429, 471
Chronological history of regular annual and supplemental appropriation bills ... 2272
Comparison of appropriations by departments and establishments ... 2264
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2389
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2363
Customs Service, U.S.:
Airports, Customs services at (to be derived from fees collected) ... 430
Customs forfeiture fund ... 430
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2342, 2346
Operation and maintenance, air interdiction program ... 430, 471
Permanent appropriations:
Federal funds ... 2233
Trust funds ... 2248
Salaries and expenses ... 429, 471
Departmental Offices:
Permanent appropriations:
Federal funds ... 2232
Trust funds ... 2248
Farm Credit System Financial Assistance Corporation, payments to the ... 385
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2336
Federal Law Enforcement Training Center:
Acquisition, construction, improvements, and related expenses ... 428
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2342
Salaries and expenses ... 428
Financial Management Service:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2342
Permanent appropriations:
Federal funds ... 2232
Trust funds ... 2248
Salaries and expenses ... 428
General provisions ... 433, 455
Internal Revenue Service:
Administrative provisions ... 432
Examinations and appeals ... 431
Investigation, collection, and taxpayer service ... 431
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2342
Permanent appropriations—Federal funds ... 2233
Salaries and expenses ... 431
Tax returns, processing ... 431
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2340, 2342, 2346
Mint, U.S.:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2342

Page

Treasury, Department of the—Continued
Mint, U.S.—Continued
Permanent appropriations—Federal funds ... 2233
Salaries and expenses ... 431
Public Debt, Bureau of the:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2342
Public debt, administering the ... 431
Shipment, payment of Government losses in ... 431
Public debt, interest on the: Permanent appropriations—Federal funds ... 2233
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2257
Recapitulation of itemized estimates and new budget (obligational) authority ... 2351
Secretary, Office of the:
International affairs ... 427
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2342
Salaries and expenses ... 427
Secret Service, U.S.:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2342
Permanent appropriations—Federal funds ... 2233
Salaries and expenses ... 432
Treasury, Postal Service, and General Government Appropriations Act, 1989 ... 427
Act relating to: Bureau of the Mint for fiscal year 1988, to authorize appropriations for the ... 2077
Authorizations for appropriations, public debt transactions, and contract authorizations approved during the 2d session of the 100th Congress ... 2285
Chronological history of regular annual and supplemental appropriation bills ... 2272
General provisions ... 450
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2342
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2257
Recapitulation of itemized estimates and new budget (obligational) authority ... 2351

U

Ukraine Famine, Commission on the, an act to extend the life of the ... 7
Chronological history of regular annual and supplemental appropriation bills ... 2272
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2257
Urgent Supplemental Appropriations Act of 1989 to meet the dire emergency created by the crisis of drug abuse ... 467
Chronological history of regular annual and supplemental appropriation bills ... 2272
General provision ... 472
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2345
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2257
Recapitulation of itemized estimates and new budget (obligational) authority ... 2351
U.S. Holocaust Memorial Council ... 278
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2317
Permanent appropriations—Trust funds ... 2251

V

Veterans act:
Acts relating to:
Department of Veterans Affairs Act ... 2159
Radiation-Exposed Veterans Compensation Act of 1988 ... 2082
Veterans Judicial Review Act ... 2171
Veterans' Benefits and Programs Improvement Act of 1988 ... 2200
Veterans' Benefits and Services Act of 1988 ... 2083
Veterans' Employment, Training, and Counseling Amendments of 1988 ... 2142
Veterans' Home Loan Program Emergency Amendments of 1988 ... 2081
Authorizations for appropriations, public debt transactions, and contract authorizations approved during the 2d session of the 100th Congress ... 2285
Veterans Administration:
Administrative provisions ... 227
Comparison of appropriations by departments and establishments ... 2264
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2389

Page

Veterans Administration—Continued
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1988, arranged by agencies 2365
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments 2363
Compensation and pensions 14, 223
Construction:
Major projects 224
Minor projects 225
Construction of State extended care facilities, grants for 226
Direct loan revolving fund 226
Emergency mandatory veterans supplemental appropriations, 1988 5
Chronological history of regular annual and supplemental appropriation bills 2272
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2288
Recapitulation of appropriations by acts, irrespective of fiscal years 2257
Recapitulation of itemized estimates and new budget (obligational) authority 2351
General operating expenses 224
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2290, 2311
Loan guaranty revolving fund 226
Medical administration and miscellaneous operating expenses 224
Medical and prosthetic research 224
Medical care 223
Parking garage revolving fund 226
Permanent appropriations—Trust funds 2249
Philippines, grants to the Republic of the 226
Readjustment benefits 223
Recapitulation of appropriations by acts, irrespective of fiscal years 2256
Veterans cemeteries, grants for the construction of State 226
Veterans insurance and indemnities 223

W

Washington Metropolitan Area Transit Authority:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2340
Interest payments 414
Woodrow Wilson International Center for Scholars:
Endowment challenge fund, payment to 276
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts 2316
Salaries and expenses 275

○

Page

Public Laws—Continued

100–297 937
100–300 1460
100–301 1743
100–318 1748
100–321 2082
100–322 2083
100–323 2142
100–330 609
100–339 491
100–342 2033
100–348 1750
100–351 1195
100–355 1753
100–365 1353
100–370 723
100–372 2046
100–382 1196
100–383 1355
100–386 1464
100–387 492
100–398 1367
100–399 524
100–406 1754
100–407 1200
100–411 1757
100–415 1759
100–418 618
100–421 1759
100–428 1760
100–433 1762
100–435 541
100–442 1764
100–448 2048
100–453 737
100–456 745
100–465 1239
100–471 1469
100–475 1766
100–476 1767
100–478 1240
100–479 1767
100–480 1959
100–483 1255
100–485 1469
100–486 1770
100–490 1258
100–494 2060
100–504 1371
100–505 1543
100–509 1547
100–515 1772
100–516 1259
100–518 570
100–519 629
100–523 1774
100–524 1775
100–526 925
100–527 2159
100–532 574
100–533 637
100–534 1777
100–536 645
100–541 1785
100–546 604
100–551 1268
100–552 1786
100–554 1788

Page

Public Laws—Continued
100-557 ... 1790
100-559 ... 1802
100-560 ... 1806
100-561 ... 1277
100-563 ... 1808
100-564 ... 1811
100-567 ... 1812
100-569 ... 1218
100-570 ... 2002
100-571 ... 1817
100-572 ... 1288
100-573 ... 1821
100-579 ... 1550
100-580 ... 1822
100-582 ... 1293
100-584 ... 646
100-585 ... 1833
100-589 ... 648
100-590 ... 1386
100-591 ... 2071
100-594 ... 651
100-598 ... 1404
100-605 ... 1227
100-607 ... 1557
100-610 ... 1301
100-615 ... 1228
100-626 ... 1220
100-627 ... 655
100-628 ... 1664
100-630 ... 1717
100-636 ... 665
100-647 ... 1993
100-653 ... 1839
100-656 ... 666
100-666 ... 1849
100-675 ... 1854
100-676 ... 1303
100-680 ... 1234
100-685 ... 2013
100-687 ... 2171
100-688 ... 1333
100-689 ... 2200
100-690 ... 1409
100-696 ... 1863
100-698 ... 1899
100-699 ... 1904
100-702 ... 1965
100-703 ... 1409
100-707 ... 1412
100-711 ... 706
100-713 ... 1910

R

Railroad Retirement Board:
Administration, limitation on ... 316
Comparison of appropriations by departments and establishments ... 2263
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2387
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2362
Dual benefits payments account ... 315
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2323
Permanent appropriations:
Federal funds ... 2231
Trust funds ... 2246

Page

Railroad Retirement Board—Continued
Railroad retirement accounts, Federal payments to the ... 315
Railroad unemployment insurance administration fund, limitation on ... 316
Review activity, limitation on ... 316
Railroad Retirement Reform, Commission on:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322
Salaries and expenses ... 313
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of comparison of budget estimates, appropriations, and rescissions ... 2373
Recapitulation of itemized estimates and new budget (obligational) authority ... 2349
Recapitulation of miscellaneous private acts, 100th Congress, 2d session ... 2219
Rescissions and deferrals reports:
Cumulative report on rescissions and deferrals, September 1, 1988 ... 477
Cumulative reports on rescissions and deferrals, January 1, 1989 ... 483
Rescissions of appropriations considered during the 2d session of the 100th Congress, arranged by departments and establishments ... 2377
Responsibilities for Financing Postsecondary Education, National Commission on ... 314
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322
Revenue act: Technical and Miscellaneous Revenue Act of 1988 ... 1993
Authorizations for appropriations, public debt transactions, and contract authorizations approved during the 2d session of the 100th Congress ... 2284
Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 ... 357
Acts relating to:
Agricultural Credit Technical Corrections Act of 1988 ... 524
Disaster Assistance Act of 1988 ... 492
Federal Crop Insurance Commission Act of 1988 ... 604
Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988 ... 574
Hunger Prevention Act of 1988 ... 541
To authorize the establishment by the Secretary of Agriculture of a plant stress and water conservation research laboratory and program at Lubbock, Texas ... 491
United States Grain Standards Act Amendments of 1988 ... 570
Agricultural programs:
Chronological history of regular annual and supplemental appropriation bills ... 2270
Comparison of appropriations by departments and establishments ... 2259
Corporations: Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2332
Domestic food programs: Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2335
Farm income stabilization: Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2332
International programs: Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2335
Production, processing and marketing: Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Recapitulation of itemized estimates and new budget (obligational) authority ... 2351
Rural development programs: Rural development assistance: Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2332
Authorizations for appropriations, public debt transactions, and contract authorizations approved during the 2d session of the 100th Congress ... 2281
Chronological history of regular annual and supplemental appropriation bills ... 2270
Domestic food programs:
Chronological history of regular annual and supplemental appropriation bills ... 2270
Comparison of appropriations by departments and establishments ... 2259
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Recapitulation of itemized estimates and new budget (obligational) authority ... 2351
General provisions ... 386
International programs:
Chronological history of regular annual and supplemental appropriation bills ... 2270
Comparison of appropriations by departments and establishments ... 2259
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Recapitulation of itemized estimates and new budget (obligational) authority ... 2351
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2331
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Recapitulation of itemized estimates and new budget (obligational) authority ... 2351
Rural development programs:
Chronological history of regular annual and supplemental appropriation bills ... 2270

Page

Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989—Continued
Rural development programs—Continued
Comparison of appropriations by departments and establishments ... 2259
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Recapitulation of itemized estimates and new budget (obligational) authority ... 2351

S

Science acts:
Acts relating to:
Earthquake Hazards Reduction Act of 1977 for fiscal years 1988, 1989, and 1990, to authorize appropriations under the ... 2001
National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 ... 2013
National Science Foundation Authorization Act of 1988 ... 2002
Authorizations for appropriations, public debt transactions, and contract authorizations approved during the 2d session of the 100th Congress ... 2284
Science and Technology Policy, Office of: Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Securities and Exchange Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2296
Salaries and expenses ... 47
Security and Cooperation in Europe, Commission on:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2295
Salaries and expenses ... 44
Selective Service System:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2311
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2256
Salaries and expenses ... 223
Small Business Administration:
Business loan and investment fund ... 10, 48
Comparison of appropriations by departments and establishments ... 2263
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2388
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2362
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2289, 2296
Pollution control equipment contract: Guarantee revolving fund ... 49
Revolving funds ... 48
Salaries and expenses ... 10, 47
Surety bond guarantees revolving fund ... 49
Smithsonian Institution:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2315
National Zoological Park:
Buildings, restoration and renovation of ... 274
Construction ... 275
Construction and improvements ... 274
Permanent appropriations—Trust funds ... 2251
Salaries and expenses ... 274
Soldiers' and Airmen's Home:
Capital outlay ... 316
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2323
Operation and maintenance ... 316
Permanent appropriations—Trust funds ... 2242
State, Department of:
Administrative provision ... 13
Antiterrorism assistance ... 170
Chronological history of regular annual and supplemental appropriation bills ... 2268
Comparison of appropriations by departments and establishments ... 2263
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2388
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1988, arranged by agencies ... 2365
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2362

Page

State, Department of—Continued
Foreign affairs, administration of:
American Institute in Taiwan, payment to the ... 34
Buildings abroad, acquisition and maintenance of ... 34
Diplomatic and consular service, emergencies in the ... 34, 469
Foreign service retirement and disability fund, payment to the ... 34
Foreign missions and officials, protection of ... 34
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2293, 2345
Permanent appropriations:
Federal funds ... 2231
Trust funds ... 2246
Representation allowances ... 34
Salaries and expenses ... 33, 469
General provisions ... 36
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2293
International commissions:
American sections ... 36
Construction ... 36
International Boundary and Water Commission, United States and Mexico ... 35
International fisheries commissions ... 36
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2293
Salaries and expenses ... 35
International narcotics control ... 168
International organizations and conferences:
International conferences and contingencies ... 35
International organizations, contributions to ... 35
International peacekeeping activities, contributions for ... 35
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2293
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2290, 2293, 2305, 2307, 2345, 2348
Migration and refugee assistance ... 169
Migration and refugee assistance fund, U.S. emergency ... 12, 170
Other:
Asia Foundation, payment to the ... 36
Fishermen's guaranty fund ... 36
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2293
Permanent appropriations—Federal funds ... 2231
Soviet-East European research and training ... 36
U.S. bilateral science and technology agreements ... 36
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2255
Recapitulation of itemized estimates and new budget (obligational) authority ... 2349
Rescissions of appropriations considered during the 2d session of the 100th Congress, arranged by departments and establishments ... 2377
State Justice Institute:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2296
Salaries and expenses ... 49
Summary of estimates not considered, by fiscal years, arranged by departments and establishments ... 2375
Susquehanna River Basin Commission:
Contribution to ... 150
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2303
Salaries and expenses ... 150

T

Tax Court, U.S.:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2344
Permanent appropriations:
Federal funds ... 2234
Trust funds ... 2251
Salaries and expenses ... 450

Page

Tennessee Valley Authority:
Fund ... 151
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2304
Permanent appropriations—Federal funds ... 2234
Total appropriations by sessions of Congress ... 2399
Trade Representative, Office of the U.S.:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2296
Salaries and expenses ... 47
Transportation and Related Agencies Appropriations Act, 1989 ... 395
Acts relating to:
Alternative Motor Fuels Act of 1988 ... 2060
Aviation Safety Research Act of 1988 ... 2071
Coast Guard Authorization Act of 1988 ... 2048
Independent Safety Board Act Amendments of 1988 ... 2046
Rail Safety Improvement Act of 1988 ... 2033
Authorizations for appropriations, public debt transactions, and contract authorizations approved during the 2d session of the 100th Congress ... 2284
Chronological history of regular annual and supplemental appropriation bills ... 2270
General provisions ... 414
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2337
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2257
Recapitulation of itemized estimates and new budget (obligational) authority ... 2351
Transportation, Department of:
Chronological history of regular annual and supplemental appropriation bills ... 2270
Coast Guard:
Acquisition, construction, and improvements ... 397, 471
Boat safety:
Comparison of budget estimates and appropriations to liquidate contract authorizations ... 2279
Contract authority, liquidation of ... 398
Bridges, alteration of ... 397
Comparison of appropriations by departments and establishments ... 2263
Deepwater port liability fund ... 398
Grants-in-aid for airports: Comparison of budget estimates and loan and borrowing authorizations carried in appropriation acts ... 2277
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2289, 2294, 2337, 2346
Offshore oil pollution compensation fund ... 397
Operating expenses ... 10, 396, 471
Permanent appropriations:
Federal funds ... 2232
Trust funds ... 2248
Research, development, test, and evaluation ... 397
Reserve training ... 397
Retired pay ... 397
Comparison of appropriations by departments and establishments ... 2263
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2388
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1988, arranged by agecies ... 2365
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2363
Consultant services: Comparison of appropriations by departments and establishments ... 2263
Federal Aviation Administration:
Aircraft purchase loan guarantee program ... 400
Comparison of budget estimates and loan and borrowing authorizations carried in appropriation acts ... 2275
Aviation insurance revolving fund ... 400
Comparison of appropriations by departments and establishments ... 2263
Facilities and equipment (airport and airway trust fund) ... 399
Grants-in-aid for airports (liquidation of contract authorization) (airport and airway trust fund) ... 10, 400
Comparison of budget estimates and appropriations to liquidate contract authorizations ... 2279
Comparison of budget estimates and contract authorizations carried in appropriation acts ... 2277

Page

Transportation, Department of—Continued
Federal Aviation Administration—Continued
Headquarters administration ... 398
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2289, 2337
Operations ... 398
Permanent appropriations—Trust funds ... 2248
Research, engineering and development (airport and airway trust fund) ... 399
Federal Highway Administration:
Airport access demonstration project (highway trust fund) ... 403
Alabama highway bypass demonstration project ... 405
Baltimore-Washington Parkway (highway trust fund) ... 403
Bridge capacity improvements (highway trust fund) ... 406
Bridge improvement demonstration project ... 404
Bridge restoration ... 407
Climbing lane safety demonstration project ... 405
Comparison of appropriations by departments and establishments ... 2263
Corridor H improvement project ... 406
Corridor safety improvement project (highway trust fund) ... 406
Federal-aid highways:
Highway trust fund:
Comparison of budget estimates and appropriations to liquidate contract authorizations ... 2279
Contract authorization, liquidation of ... 402
Obligations, limitation on ... 402
Permanent appropriations—Trust funds ... 2247
General operating expenses, limitation on ... 401
Highway capacity improvement demonstration project ... 404
Highway-railroad grade crossing safety demonstration project (highway trust fund) ... 404
Highway-related safety grants (liquidation of contract authorization) (highway trust fund) ... 401
Comparison of budget estimates and appropriations to liquidate contract authorizations ... 2279
Highway safety and economic development demonstration projects (highway trust fund) ... 403
Highway safety improvement demonstration project (highway trust fund) ... 403
Highway safety research and development (highway trust fund) ... 401
Highway widening and improvement demonstration project ... 404
Highway widening demonstration project ... 404
Indiana industrial corridor safety demonstration project ... 405
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2337
Intermodal urban demonstration project (highway trust fund) ... 403
Interstate safety demonstration project ... 404
Kentucky bridge demonstration project ... 405
Miscellaneous trust funds: Permanent appropriations—Trust funds ... 2247
Motor carrier safety grants ... 402
Comparison of budget estimates and appropriations to liquidate contract authorizations ... 2279
Grants (liquidation of contract authorization) (highway trust fund) ... 402
Nuclear waste transportation safety demonstration project (highway trust fund) ... 404
Oklahoma highway widening demonstration project ... 405
Public recreation areas, access highways to on certain lakes ... 403
Railroad-highway crossings demonstration projects ... 402
Reservation road ... 407
Right-of-way revolving fund (limitation on direct loans) (highway trust fund) ... 402
Road extension demonstration ... 407
Urban airport access safety demonstration project ... 406
Urban highway corridor demonstration project ... 406
Utah pedestrian safety demonstration project ... 405
Virginia HOV safety demonstration project ... 405
Federal Railroad Administration:
Administrator, Office of the ... 408
Comparison of appropriations by departments and establishments ... 2263
Conrail commuter transition assistance ... 410
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2339
National Railroad Passenger Corporation, grants to the ... 409
Northeast corridor improvement program ... 409

Page

Panama Canal Commission—Continued
Revolving fund ... 413
Peace Corps ... 168
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2307
Peace, U.S. Institute of:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2323
Operating expenses ... 317
Pennsylvania Avenue Development Corporation:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2316
Public development ... 278
Salaries and expenses ... 278
Permanent appropriations:
Federal funds ... 2221
Trust funds ... 2239
Personnel Management, Office of:
Civil service retirement and disability fund, payment to ... 449
Comparison of appropriations by departments and establishments ... 2262
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2387
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1989, arranged by departments and establishments ... 2362
Employees health benefits, Government payment for annuitants ... 449
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2343
Permanent appropriations:
Federal funds ... 2231
Trust funds ... 2246
Revolving fund ... 449
Salaries and expenses ... 448
Physician Payment Review Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322
Salaries and expenses ... 315
Postal Service, U.S.:
Administrative provision ... 434
Chronological history of regular annual and supplemental appropriation bills ... 2272
Comparison of appropriations by departments and establishments ... 2263
Comparison of budget estimates, appropriations, and rescissions by fiscal years arranged by departments and establishments ... 2387
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1988, arranged by departments and establishments ... 2362
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2342
Permanent appropriations—Federal funds ... 2234
Postal Service fund, payment to the ... 433
Recapitulation of appropriations by acts, irrespective of fiscal years ... 2257
Recapitulation of itemized estimates and new budget (obligational) authority ... 2351
Senate provision, sense of ... 433
Potomac River Basin, Interstate Commission on the:
Contribution to ... 149
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2303
Prevent Infant Mortality, National Commission to ... 214
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322
Prospective Payment Assessment Commission:
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322
Salaries and expenses ... 315
Public Broadcasting, Corporation for ... 313
Comparison of budget estimates, appropriations, and rescissions, fiscal year 1991, arranged by agencies ... 2369
Itemized comparisons of budget estimates, appropriations and rescissions arranged by acts ... 2322
Permanent appropriations—Federal funds ... 2233
Public Laws:
100-252 ... 2001
100-253 ... 2081
100-274 ... 2077
100-290 ... 1437
100-294 ... 1439

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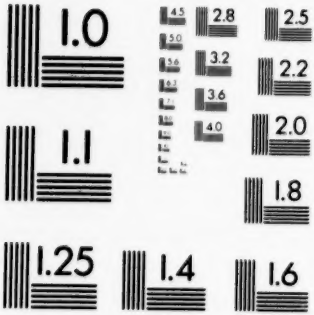

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